

DEIRDRE GOODWIN

Year of call
1974



Deirdre Goodwin specialises in catastrophic and complex clinical negligence and personal injury claims.

She is widely recognised for her skill and expertise in birth injury and paediatric neurology cases, as well as major neurosurgical, orthopaedic and oncology claims. She has been consistently listed in Chambers Directory and the Legal 500 as a Leader in her field.

Described as having “amazing attention to detail” and being “incisive, practical and a pleasure to work with” (Chambers UK Bar 2021) “proactive, skilled advocate and excellent negotiator” (Legal 500 2017), Deirdre has a well-earned reputation as an experienced and skilled advocate with “a terrific grasp of the law” (Chambers & Partners 2014). Chambers & Partners 2018 described her as a barrister who is “approachable and gets on well with clients” with “particular skill in obstetric and perinatal asphyxia brain injury claims”.

Deirdre has been involved in a number of important developments including the early use of structured settlements, acting for the plaintiff in the first personal injury claim where damages exceeded £1 million, and as lead junior counsel in seminal House of Lords decision in *Bolitho*.

She is “a fierce advocate who really fights for her clients” (Chambers & Partners 2008) and has acted for both claimants and defendants in a large number of cases where damages have exceeded £10 million, many including periodical payments. Described as having outstanding knowledge with “exceptional attention to detail” (Chambers and Partners 2018), she is also recommended for “her efficiency with paperwork, her rapport with experts and her ‘user-friendly’ attitude” (Chambers & Partners 2013).

Deirdre has the ability quickly to distil the diverse issues in challenging cases with a keen intuition for an opponent’s position. She is considered a “very able, conscientious and meticulous operator” (Chambers & Partners 2011) who is “extremely thorough and effective” (Chambers & Partners 2014).

Deirdre contributed to the 1st and 2nd editions of the PIBA Personal Injury Handbook and has written articles for the Personal Injury Law Journal, including *Interim Payments: Room for rent* (2016), a prescient analysis of

the obstacles presented by the Roberts v Johnstone test in the valuation of accommodation claims and Pitfalls in quantifying brain injury claims (June 2019).

LEGAL EXPERTISE

Clinical Negligence

An experienced clinical negligence practitioner with a flair for pursuing catastrophic injury claims relating to obstetric and perinatal mismanagement including OBPI Erb's palsy claims: her "all-round advocacy and advice is first class" (Legal 500 2019).

Described as "amazingly supportive and knowledgeable. Her mastery of clinical negligence is second to none. She knows what questions to put to medical experts and how to evaluate their evidence." (Chambers and Partners 2016).

Deirdre is regularly instructed in cases arising from severe perinatal asphyxial brain damage, pre-natal diagnostics, Erb's palsy, paediatric neurological injury, major neurosurgical and orthopaedic iatrogenic injury and delayed diagnosis of cancer and meningitis. Her experience encompasses specialist knowledge in mental capacity matters including interaction with Local Authority claims for recoupment of statutory payments for care and accommodation provision to children and protected parties.

She has been Visiting Counsel to the Cayman Islands Health Services Authority and lectured on medical law and ethics, clinical negligence & catastrophic injury claims to lawyers and health professionals.

Medical Ethics

Deirdre has lectured extensively on medical ethics to health bodies including Advanced General Practitioner Trainer Courses. Topics have included death certification post Shipman; withdrawal of nutrition and hydration; neonatal euthanasia and the interaction of the Human Rights Act with Healthcare Law. Lectures include a neonatal training day for the South London Neonatal Group and facilitation of a neonatal case study debate.

Selected Cases

AC (by his father and litigation friend MC) v St George's University Hospitals NHS Foundation Trust (2018)

Claimant was the second of dichorionic and diamniotic twins who suffered an avoidable disruption in the oxygenated blood supply to his brain through delay by the Defendant Trust's obstetricians and midwives during his birth. He sustained an acquired brain injury which has resulted in dyskinetic cerebral palsy with associated cognitive deficit, developmental delay and severe behavioural difficulties. Approved settlement (Stewart J): £5.3 million retained lump sum and PPOs in respect of care, case management and Court of Protection costs. Capitalised value: £22.335 million.

MD (A Protected Party) v Imperial College Healthcare NHS Trust (2020)

35 year old male Claimant who in 2013 when the balance of his mind was profoundly disturbed made an attempt at self-harm which led to his admission as a psychiatric patient under the care of the Defendant Trust. Despite his vulnerable and psychotic state he was not adequately supervised and was left on his own for several hours during which he made several suicide attempts and there was no intervention in time to prevent a further attempt at self-harm which led to deprivation of ventilation and severe hypoxic injury. He was not resuscitated until he had sustained permanent hypoxic brain damage which left him tetraplegic with no ability to speak. Despite the cognitive injury he has insight into his condition although this is balanced by any permanent realisation of the nature of his disability. Life expectancy was reduced by some 26 years. Settlement in August 2020 approved by Lambert J on 26 October 2020 in which she compared and approved the approach adopted in respect of the calculation of the capital element of the accommodation claim which was more advantageous pre the Court of Appeal judgement in *Swift v Carpenter* in early October. Anonymity Order granted.

Settlement was a combination of periodical payments for care, case management and Court of Protection costs, and a residual lump sum of £4,750 for the remaining heads of loss including accommodation, therapies, assistive technology and equipment. Fully capitalised claim was £13.9 million.

RH (executor of the estate of JH) v University Hospitals Bristol Trust and North Bristol NHS Trust (2016)

Negligent reporting of mammogram resulting in death 3 years later at age 58. Concealment by Trusts of request by deceased (senior manager at one of the Trusts) for review of earlier mammography and comments upon this imaging by 'whistle-blower' radiologist in subsequent independent Inquiry into Pathology Services at both Trusts. Written admission of lack of openness by both Trusts, duty of candour admission having been made a condition of settlement terms even though events were pre-Regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, the Claimant arguing that the duty of candour has been implicit in these claims since the 15th century.

AC (a minor suing by his litigation friend MC) v St George's Healthcare NHS Trust [2015] EWHC 3644 (QB), Whipple J

Opposed Eeles interim payment application to fund purchase of suitably adapted accommodation plus structured management programme for a mobile 6 year old child with dyskinetic cerebral palsy and severe behavioural problems. £1.203 million awarded in full.

ZM v Sandwell & West Birmingham Hospitals NHS Trust (2020)

Wrongful birth claim: Claimant (42 years old) gave birth in August 2012 to a child with Down's syndrome following Defendant's failure to advise upon or offer antenatal Down's syndrome screening. Claimant already had a disabled child. Liability compromised at 90% in the Claimant's favour. Her child has profound cognitive difficulties but is highly mobile with no perception of risk. Defendant initially only conceded an obligation to meet additional costs to age 18 years and successfully resisted an application for an accommodation expert (subsequently conceded). The need for a full care package and various therapeutic packages was also strongly

disputed with the Defendant assessing the global value at less than £800,00. At JSM, full accommodation costs conceded and a full care package until the child was 50 years old with corresponding therapies, medical overview and equipment provision. Trust set up for overview of monies set aside by Claimant for the child's needs.

Global settlement January 2020 : £8.5 million

JN (A Minor) v Imperial College Healthcare NHS Trust (2020)

11 year old female Claimant who suffered a group 2 Erb's palsy injury (low to median severity) at the time of her birth in 2009. She was academically gifted and able to write neatly and operate technology. Other heads of loss included future personal support, childcare (assuming 4 children to reflect the Claimant's cultural background), psychological support, assistive technology, adapted vehicle, continuing physiotherapy in adult life and The settlement is significant as the Defendant accepted the 'reasonable need' for private education to maximise the Claimant's academic potential to qualify as a doctor and to protect her from the serious bullying she had suffered in her state school. Private school fees were therefore met in full but with a reduction in the loss of earning capacity claim to reflect the likelihood that within the medical profession this was unlikely to be significant.

Global settlement: £1.25 million approved and anonymity Order granted in October 2020.

CS v Royal Bournemouth and Christchurch Hospitals NHS Trust (2013)

Birth asphyxia cerebral palsy. £7m lump sum equivalent. Instructed pre-settlement by Local Authority regarding statutory payments recoupment.

Austin v Cayman Islands (2013)

Acting for Defendant, \$13m+ birth asphyxia claim where 2.5% discount factor not binding. \$2.375 million (£1.8m) settlement including costs.

KB v Swindon & Marlborough NHS Trust (2012)

Anaesthetic accident in repeat surgery following negligent orthopaedic procedure. Severe arachnoiditis, communicating hydrocephalus and paraplegia. £6.1 lump sum equivalent: £2.5m lump sum and staged Variable PPO specifying lifetime syringomyelia risk.

SH v Taunton & Somerset Hospitals NHS Trust (2011)

Cerebral palsy following aminophylline overdose to premature neonate. £6.8m lump sum equivalent.

AJ v Staffordshire County Council (2010)

Child abuse: claim against Social Services Authority failure to make appropriate interim care supervision arrangements for neonate who suffered severe skull fractures following parental assault, resulting in brain damage and violent, disinhibited personality. Liability and quantum in contention – causation compromised

50:50: £2.5m.

MA v South Tees Hospital NHS Foundation Trust (2010)

Birth asphyxia cerebral palsy claim. £3m equivalent – 2/3 apportionment.

ACE v GOSH (2009)

Brain damage following burst balloon during paediatric cardiac catheterisation: £5.85m.

D v G (2001)

Tetraplegia following clinically contra-indicated cervical angiogram: £4m.

Thompson v Sheffield Fertility Clinic (2000)

Contractual breach: three embryos replaced instead of two.

Bolitho v City & Hackney [1997] UKHL 46, (1997) WLR 1151

Definitive ruling on meaning of ‘responsible body of medical opinion’ within the Bolam test, and its application to acts of omission and causation; Deirdre settled the Grounds of Appeal to the Court of Appeal, the question for certification by the Court of Appeal to the House of Lords and the written Petition to the House of Lords where she was lead Junior Counsel.

Murphy v Wirral (1996) Med L R Vol 7 p99

Compromised on appeal at 90%: award of £2.25 million.

Personal Injury

Deirdre’s experience extends to all areas of personal injury practice. She acts both for claimants and defendants. “Her knowledge of claims concerning traumatic brain injuries is phenomenal and she has a calm, kind and thoughtful approach with clients” Legal 500 2019. She relishes a challenge with her focus being on catastrophic injury claims arising from head and spinal trauma, multiple injury cases and high value Fatal Accident Act claims .

Deirdre was counsel in Harrop (1988), the first PI claim to exceed £1 million, including breaking new ground in recovering sums for parents’ loss of income and costs of retaining a team of professional head-hunters to recruit a multi-disciplinary care team.

Selected Cases

GS v Iregbeilosa (2020)

Amputation case resulting from a road traffic accident in which the Defendant's motor car collided with the Claimant's motor scooter leaving him with severe bilateral leg injuries. Claimant underwent 18 months of complex reconstructive surgery; a further 18 months of such invasive management was required but Claimant elected to have a below knee amputation to provide more scope for a normal lifestyle. Defendant's demand that the Claimant's decision should be supported by therapeutic and expert medical evidence from an orthopaedic surgeon and clinical psychologist, was successfully resisted on the ground that they were not entitled to challenge this choice in the context of litigation, this being a therapeutic decision for the Claimant alone.

Loss of earnings claim was minimal as Claimant was a highly respected media professional who it was anticipated could work to full retirement age with minor 'reasonable adjustments' and whose career trajectory was largely unaffected.

Settlement April 2020 for £2.5 million including microprocessor prosthetic and prosthetics for skiing, swimming and running. Claimant returned to competitive triathlons within 9 months of amputation surgery. Claim also included full cost of special accommodation with extensions and adaptations to meet his disability need. Early settlement of the claim was driven in part to allow recoupment of the full accommodation costs which was unlikely (and so proved) to be the position following the October 2020 decision in *Swift v Carpenter* applying a 5% investment yield factor to capital costs to reflect the likely value of the reversionary interest.

GA v JGE Truck & Plant Limited (2016)

Spinal injury – quadriparesis to elite cyclist struck by opening rear door of oncoming lorry. £1.9 million settlement (pre increase in the DR). The rear door of an oncoming truck opened and struck the Claimant's back as he cycled past the truck. This resulted in a partial quadriparesis with altered gait and foot drop but the Claimant was able to walk and climb stairs slowly: the expert evidence was that anyone less fit would have been wheelchair bound. Settlement included full recovery of accommodation (new purchase and adaptation costs), physiotherapy, aids and equipment and psychotherapy: There was no claim for Loss of Earnings or Pension.

E v Ageas Insurance Ltd (2014)

Head injury following cycling accident where C cycled across major road junction without looking. Complex arguments regarding Local Authority claim for recoupment of residential care costs against personal injury damages and C's equity in family home. £1.45m lump sum on 50:50 apportionment with funds ring-fenced in CoP.

Morgan v Griffey (2013)

17 year old Claimant suffered a severe head injury after running across pedestrian light-controlled crossing where lights green in favour of traffic. Capacity finely balanced. Court approval of £1.67m settlement (c.66%) to provide CPR 21.10 protection. Judge commented "In the good old days she would not have

succeeded...there were real risks that the Claimant would have got absolutely nothing”.

Bannister v Bauman (2013)

RTA moderate to severe head injury exacerbating pre-existing OCD to severe and debilitating level such that Claimant could not work or be left unsupervised. £4.53m claim – £2.6m settlement, acting for Defendant foreign insurer.

Taylor v Anderson & Taylor Bros Plant (2004)

Serious head injury; compromised 60:40; complex past and future loss of earnings/shareholding claim: £3m.

Whitaker v Nuttall deceased and MIB (2004)

RTA catastrophic head injury. £4.75m including £1.5m structured settlement self-funded by MIB.

Memberships

- AvMA (Action Against Medical Accidents)
- Oxford Medico-Legal Society
- PNBA (Professional Negligence Bar Association)
- PIBA (Personal Injury Bar Association)
- Midlands Circuit

Publications

‘Exploring the potential duty of care in clinical genomics under UK law’, Medical Law International Volume 17, Issue 3 Sep 2017 Pages 111 – 223. Available [here](#).

‘Brain injury: challenges for claimants’, Personal Injury Law Journal, Number 176, June 2019 issue, pages 16-22.

‘Room for rent’, in Personal Injury Law Journal, March 2016, pages 12-17.

‘No procedural hiding place: the Mitchell effect’, in Personal Injury Law Journal, February 2014, pages 2-7.

‘Masterman-Lister and Bailey v Warren revisited’, in Personal Injury Law Journal, February 2013, pages 6-10.

