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CHAMBERS

AvMA South West Lawyers' Support Group Meeting

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*HOW CLAIMANTS SHOULD APPROACH A CLAIM
FOR LOST YEARS IN CLINICAL NEGLIGENCE CLAIMS*

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Introduction

1. Actions for damages in respect of the consequences of the death following a tort may be brought as follows:
 - (1) By the injured person, claiming "lost years" as a result of foreshortened life. Such an action is barred by the death of the claimant.
 - (2) By the estate of the deceased, pursuant to Law Reform (Miscellaneous Provision) Act 1934.
 - (3) By a dependent of the deceased or person entitled to a "bereavement award" pursuant to Fatal Accidents Act 1976. Do not forget that a dependent may enjoy other rights which are not consequent upon the tort (eg pursuant to Inheritance Act 1975 or Trusts of Land and Appointment of Trustees Act 1996).

Claims for the terminally ill: A claim for lost years

2. A claim for "lost years"

The law with regard to lost years claims is in flux.

(a) The House of Lords:

i) Pickett v British Rail Engineering Ltd [1979] 1 All ER 774

Male mesothelioma victim aged 51. Claim for lost years allowable for adult with dependents. He died in the course of the litigation (which continued under the FAA)

ii) Gammell v Wilson [1981] 1 All ER 578

1. The age of a victim is not as a matter of principle relevant to the issue of whether or not a claim can be made for the lost years.

2. The lack of dependants cannot be a factor which defeats a claim for damages for loss of earnings in the lost years. When it comes to the assessment of damages for the lost years the issues are evidential and not matters of principle.

3. Per Scarman LJ:

"The loss to the estate is what the deceased would have been likely to have available to save, spend, or distribute

after meeting the cost of his living at a standard which his job and career prospects at time of death would suggest he was reasonably likely to achieve."

(b) The subsequent Court of Appeal: Croke v Wiseman [1981] 3 All ER 852.

- i) Life expectancy 47. No award for lost years.
- ii) Per Griffiths LJ, on grounds of social policy:
 - (a) Compensation for the "lost years" was intended to form a fund which would be available to support a Plaintiff's actual or likely dependants.
 - (b) In the case of a catastrophically injured child, ". . . the court should refuse to speculate as to whether in future there might have been dependants for the purpose of providing a fund of money for persons who will in fact never exist".
 - (c) If the gravely injured child was going to live for many years into adult life, "very different considerations apply. There are compelling social reasons why a sum of money should be awarded for his future loss of earnings. The money will be required to care for him."

(c) The current law:

- (i) An adult victim with dependents may make a claim for loss of life expectancy, including lost earnings in the lost years, *Iqbal v Whipps Cross University NHS Trust [2007] EWCA civ 1190*.
- (ii) However, damages are conventionally based upon 50% of net earnings as representing the level of income over and above that necessary for subsistence.
- (iii) The Court of Appeal has found that claims for lost years by a young child are not permissible in principle because the injuries are so catastrophic that there could never be any dependents, *Iqbal v Whipps Cross*. The Court in *Iqbal* followed previous Court of Appeal authority, *Croke v Wiseman [1981] 3 All ER 852* even though this departed from earlier authority of the House of Lords allowing such claim, *Pickett v Wilson [1982] AC 227*. The issue will remain unclear until heard by the Supreme Court.

3. The developing law at first instance

Totham v King's College Hospital [2015] EWHC 97 Laing J

Claim for lost years for a child suffering cerebral palsy at birth. (life expectancy 47). Laing J repeated the criticism of *Croke v Wiseman [1981] 3 All ER 852*, followed (reluctantly) by the Court of Appeal in *Iqbal v Whipps Cross University NHS Trust [2007] EWCA civ 1190*, even though this departed from earlier authority of the House of Lords allowing such claim, *Pickett v Wilson [1982] AC 227*.

4. General Principles underpinning Totham per Laing J

- (a) "The first is that the purpose of an award of damages in these circumstances is, so far as is possible, to put Eva in the position she would have been in had the Trust not negligently injured her."
- (b) "There will often be a range of potentially reasonable options for a Claimant to choose from when mitigating her loss. Provided her choice is within that range, the Defendant cannot reduce his liability by arguing that Eva should have chosen a cheaper option from that range."
5. Robshaw v United Lincolnshire Hospitals NHS Trust [2015] EWHC 923
Following Totham: prospects of future fatherhood within the lifetime are in fact fanciful.
6. HS v Lancashire Teaching Hospitals NHS Trust [2015] EWHC 1376

Interplay with the claims of the estate

7. A "lost years claim" is not recoverable *by the estate* in respect of deaths on or after 1 January 1983, s 4 AJA 1982.
8. There are conflicting authorities as to whether a living Claimant is able to recover damages for his own funeral: Bateman v Hydro Agri (UK) Ltd 15/9/96 QBD (a mesothelioma action: allowed); Watson v Cakebread [2009] EWHC 1695 QBD (dismissed).

Pitfalls

9. The Fatal Accidents Act does not itself create a cause of action

Instead, it allows it to persist despite the death for the benefit of the Dependents. Thus a claim may be barred by a previous claim by the deceased. In *Thompson v Christine Arnold* [2007] EWQB 1875 Langstaff J. The Defendant had wrongly diagnosed a cancerous lump in T's breast as benign. T subsequently issued proceedings. The schedule of loss and damage made no claim for the lost years. T obtained a judgment in default of defence. The claim was subsequently settled. Later proceedings were commenced for dependency. HELD: The purpose of the 1976 Act was not to ensure that there was a benefit conferred upon the children of the deceased: the focus was on ensuring that the tortfeasor did not escape paying damages. If death brought the right of action into play that would give rise to the prospect of double recovery for the same wrongful act.

10. Rules of law which would prevent a further claim by the deceased bar a claim by the dependent, thus a settlement against one defendant will bar a claim against another defendant concurrently liable unless the settlement is clearly restricted to only part of the full value of the claim, *Jameson v Central Electricity Generating Board* [1999] 1 All ER 193.

11. Issue (without service) of proceedings during the deceased's life time does not bar the dependent's claim, *Cachia v Faluyi [2001] WECA civ 998*. Similarly, if the deceased commenced proceedings which were discontinued after his death, *Reader & ORS V Molesworths Bright Clegg [2007] EWCA Civ 169 2*. The Court of Appeal held that the deceased's wife - had a separate cause of action against the underlying tortfeasor, s. 1 FAA 1976 which was not rendered an abuse if brought despite the discontinuance of the deceased's action.
12. An award for provisional damages made within the lifetime of the deceased does not itself bar a subsequent claim under Fatal Accidents Act per S.3(2) Damages Act 1996.
13. A child's claim is not barred by Judgement in a foreign court in proceedings brought by her widowed mother, because settlement requires the approval of the English Court, *Black v Yates [1992] QB 526; CPR 21.10*

Limitation

14. No action for dependency may be brought if the Deceased's action was statute barred at the date of death (s. 12(1) Limitation Act 1980). No account may be taken of the possibility that the Court may have directed

that the primary limitation period does not apply in respect of the **deceased's** action.

15. The Dependent's action must be brought within 3 years of the date of death or of the **dependent's** date of knowledge, s. 12(2) LA 1980
16. The limitation act operates separately for each dependent (s 13(1) LA 1980) and the Court must exclude dependent's whose claim is statute barred.
17. The Court may disapply the primary limitation period in respect of the **dependent** under s. 33 LA 1980 (per s 12(3) LA 1980).

Claims on behalf of the Estate

Law Reform (Miscellaneous Provisions Act 1934

18. s1. LR(MP)A 1934 abolished the common law rule that personal injuries died with the person. Any personal claim of the deceased now survives through the deceased's estate.
19. Locus standi
An administrator cannot sue under s 1. LR(MP)A 1934 before a grant has been obtained, *Ingall v Moran* [1946] KB 65.

20. General damages for pain, suffering and loss of amenity.

The key factor is the time between injury and death. Damages are not awarded per se for the loss of expectation of life but are increased by an awareness of foreshortened life for a period of time, *s. 1 (a)(a) AJA 1982*. If a claimant is unconscious damages are only recoverable (potentially) for loss of amenity. Fear of impending death does not give rise to a cause of action to benefit the estate; *Hicks v CC S Yorkshire [1992] 2 All ER 65*. Awards are available in cases of continuing unconsciousness, *Dolman v Deakin 24.1.90 (unreported) CA*.

21. Claims for lost years are barred

The estate cannot make a claim for the "lost years" of the deceased in respect of deaths on or after 1 January 1983, *s 4 Administration of Justice Act 1982* (overturning the decision of the House of Lords in *Gammell v Wilson [1982] AC 27*).

22. A claim for funeral expenses is allowed by *s. 3(1)(5) FAA 1976* and *LR(MP)A 1934*.

23. The following have been allowed:

- (1) The cost of a headstone, finishing off and marking a grave, *Hart v Griffiths-Jones [1948] 2 All ER 729*
- (2) A memorial for £3,600 *Kegworth v British Midland (unreported) Sir Michael Davies*

(3) Probate fees, *Executors of E Whittaker (deceased) v BBA Group Plc (Kemp)*

(4) The additional estate duty paid on gifts made because the deceased had not lived for 7 years after making them, *Davies v Whiteways Cyder Co Ltd [1975] QB 262*.

24. The following have not been allowed:

(1) The costs of a memorial service, *Harding v Scott-Moncrieff 23/7/04 Buckley J*

(2) The costs of a wake and mourning clothes, *Gammell v Wilson [1982] AC 27*; followed in *Knauer v MOJ [2014] EWHC 2553*

25. The estate cannot claim future loss of earnings from the date of death but can potentially claim for lost future capital which would have been received: A claim for a legacy which would have been payable when a child became 18 was allowed – discounted for accelerated receipt - in *Gammell v Wilson [1982] AC 27*

Claims under Fatal Accidents Act 1976

Procedural Requirements

26. The cause of action vests in the executor (from the date of death) or the administrator (from the date of the grant of probate), *s. 2 FAA 1976*. *s. 2(1)*

FAA 1976 is mandatory and states: 'the action shall be brought by and in the name of the executor or administrator of the deceased'.

27. If there is no executor/ administrator or no action is brought within 6 months after the death an action may be brought by or for all or any of those persons for whom an executor/ administrator might bring it, s.2(2) FAA.
28. The executor/administrator must take all reasonable steps to inform such dependants of the action: *Cooper v Williams [1963] 2 QB 581*. Failure to take such steps may amount to negligence. A dependant who is wrongly excluded can apply at any time before judgment to be joined.
29. **CPR 16 PD 5.** The Practice Direction to Part 16 sets out what must be included by a claimant in particulars of claim in relation to a fatal accident claim.

Bereavement Awards

30. The level of the award
The award – currently £12,980 (for causes of action accruing after 1/4/13) – is governed by s. 1A FAA 1976.

31. Qualifications for receipt of the award

(1) s. 1A FAA 1976

“An action under this Act may consist of or include a claim for damages for bereavement.

(2) A claim for damages for bereavement shall only be for the benefit--

(a) of the wife or husband [or civil partner] of the deceased; and

(b) where the deceased was a minor who was never married [or a civil partner]--

(i) of his parents, if he was legitimate; and

(ii) of his mother, if he was illegitimate.”

(2) The award is purely a creature of statute and not prevented by the grant of decree nisi, *Martin v Grey QBD 13/5/98*

(3) Where the deceased child was a minor at the date of injury but was over 18 at the date of death there is no bereavement award claim
Doleman v Deakin TLR 30/1/90 CA

Dependents

32. Who is a dependent?

S. 1(3) FAA 1976(1) defines “dependent” as:

(a) The wife or husband or former wife or husband of the deceased.

(b) Any person who –

(i) was living with the deceased in the same household immediately before the date of the death; and

- (ii) had been living with the deceased in the same household for at least two years before that date; and
- (iii) was living during the whole of that period as the husband or wife of the deceased.
- (c) Any parent or other ascendant of the deceased
- (d) Any person who was treated by the deceased as his parent
- (e) Any child or other descendent of the deceased
- (f) Any person (not being a child of the deceased) who, in the case of any marriage to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage.
- (g) Any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.
- (h) A civil partner, or child of the family.

33. Qualifying Claimants

The definition of dependency is predicated upon relationships of blood and marriage. It has been reformed to include civil partners. Unmarried partners are dealt with in a more restricted fashion

34. Statutory guidance

- (a) Any relationship by affinity shall be treated as a relationship by consanguinity, any relationship of the half blood as a relationship of the whole blood, and the stepchild of any person as his child (a relationship

by affinity means by marriage, a relationship by consanguinity means by blood).

(b) An illegitimate person shall be treated as the legitimate child of his mother and reputed father. *S. 1(5) FAA*

35. Adopted children are included in the definition, *s.39(1) Adoption Act 1976*. So are children born after the parent's death *Hyams v West Yorkshire Metropolitan County Council (unreported) 19/6/87 Potts J.*

36. The right of the unmarried to claim

(a) A divorced woman who remarried but returned to live with the deceased did not have to fulfil the qualifying period of 2 years of *S. 1(3)(b)*; *Shepherd v Post Office TLR 15/6/95*

(b) The requirements relating to cohabitees are strictly enforced: A partner (or even an unacknowledged partner can claim if she falls within *S.1(3)* but see *Kotke v Saffarini [2005] EWCA civ 221*:

i) The Claimant had a relationship of more than 4 ½ years with the deceased. They each owned a house. His sister confirmed that they were "living as a couple" for at least 2 years. Within the last 2 years she became pregnant and they had a child. The deceased contributed £40 per month to her prior to the pregnancy. They decided not to sell his house which was in £4,000 negative equity. He continued to keep most of his possessions there.

- ii) "Household" was not the same as "house."
- iii) There was a distinction "between wanting to live in the same household, intending to do so, making plans to do so and actually doing so."
- iv) The Judge found that only with the pregnancy did the deceased's "centre of gravity" change to establish that they lived in 1 household, this was in the last 2 years and the requirements of the statute were not met.

37. Swift v Sec of State 2012] EWHC 2000 (QB)

s.1 (3) is not incompatible with Art 8 European Convention of Human Rights

38. Case law on other qualifications to claim

(1) The fact that the dependency arose after the deceased had sustained the tortious injury is no bar to a claim by the dependant in respect of that tort; *Phillips v Grampian Health Board* [1989] SLT 538

(2) An unborn child at the date of death was able to claim: *Hyams v West* (unreported) 1987.

(3) The Categories of dependent (although deriving from statute) may not be closed: A claim by the child of the deceased's partner (where there was no marriage or civil partnership) was allowed: *Fretwell v Betz* 8.1.01 unreported

39. Disputes as to whether an individual qualifies as a dependent should be decided as a preliminary issue, *Pounder v London Underground Ltd* [1995] PIQR P217.

The extent of the liability of the tortfeasor:

Contributory Negligence of the deceased

40. S. 5 Fatal Accidents Act provides:

"Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, and accordingly if an action were brought for the benefit of the estate under the Law Reform (Miscellaneous Provisions) Act 1934 the damages recoverable would be reduced under section 1(1) of the Law Reform (Contributory Negligence) Act 1945, any damages recoverable in an action . . . under this Act shall be reduced to a proportionate extent."

41. Where the death is solely caused by the negligence of a dependent the claim of that dependent (but not others) is barred, *Dodds v Dodds* [1978] QB 543.

Causation

42. Causation is subject to a statutory definition

(a) A dependent may claim if *"death is caused by any wrongful act, neglect or default which is such as would (if death had not ensued) have entitled the person injured to maintain an action ..."* (s. 1(1) FAA).

(b) Injury is statutorily defined as including 'any disease and any impairment of a person's physical or mental condition'.

(c) Jurisdiction: The statute creates a cause of action for the benefit of the dependants, even if the death results from a collision of foreign ships outside the jurisdiction in international waters: *The Esso Malaysia* [1975] QB 198, [1974] 2 All ER 705

43. The Claimant must establish that the death occurred on the balance of probabilities as a result of the cause of action which gives rise to the claim.

44. Suicide does not necessarily break the chain of causation: A claim may be made where a tort causes psychological injuries to a person leading them to commit suicide *Corr (administratrix of Corr, dec'd) v IBC Vehicles Ltd* [2006] EWCA civ 331. The deceased became depressed as a result of a factory accident and committed suicide six years later. The deceased's suicide was a reasonably foreseeable consequence of the depression arising out of the accident for which the defendant was responsible.

45. Dependent causing the death

- (a) The dependant's claim will be reduced proportionately to their share in the responsibility for the death: *Mulholland v McCrea* [1961] NI 135.
- (b) the fact that one dependant was partly responsible for the death does not affect claims by other dependants, who can recover in their own right, without reduction: *Dodds v Dodds* [1978] QB 543, [1978] 2 All ER 539.

The assessment of dependency

46. Damages "may be awarded as are proportioned to the injury resulting from the death to the dependants respectively. *s. 3(1) FAA 1976*.

47. Standard of proof

The test is not whether on the balance of probabilities the Claimant would have been dependent but whether he had a substantial (i.e. not a fanciful) possibility of it.

- (a) *Davies v Taylor* [1974] AC 207 where the deceased had separated from the widow and commenced divorce proceedings for adultery the widow had not established any loss.

- (b) *Owen v Martin [1992] PIQR P151*: a 1 year marriage where the Claimant had committed adultery. The Court reduced both the multiplier (from 15 to 11) and the multiplicand (by reducing the dependency percentage).

48. The loss must be to the Dependent

Thus, where a child dependent lived with her working mother (who received maintenance for the child from the father) and after her mother's death went to live with her father who thereby saved money, the child's financial dependency was not defeated by the fact that the result was that the father saved money overall, *Martin v Grey (QBD) 13.5.98 unreported*.

49. Re marriage

(a) The widow

When assessing dependency the Court must not take into account the remarriage "of the widow or her prospects of re-marriage", *s. 3(3) FAA 1976*

(b) The Widower

A widower's prospects of remarriage have been held to be relevant, *Khan v Duncan (QBD 9.3.89*, but it was common ground that this was erroneous, *Stanley v Saddique [1992] 1 QB 1 CA*

50. Cohabitees

- (1) *s.3(4) FAA 1976* provides that "there shall be taken account (together with any other matter that appears to the Court to be relevant to the

action) the fact that the dependant had no enforceable right to financial support by the deceased as a result of their living together."

(2) In *Drew v Abassi* CA 24/5/95 the Court of Appeal upheld the Judge reducing a multiplier from 15 to 13 despite a finding that the relationship *"would have survived as well as any marriage."*

(3) Where a cohabitee does not qualify as a claimant, the children's' claim may still receive uplift to take account of the fact that their mother no longer being supported by their father, *K v JMP Co Ltd [1976] QB 85, [1975] 1 All ER 1030, CA.*

51. Remarriage and the dependency of a child

(1) The Court is not barred from considering the prospects of marriage of the surviving parent in a claim for dependency by the children of the deceased

(2) The referable case law is old, the test then being the likelihood both of remarriage and of the new partner accepting the child as a child of the family, *Thomson v Price [1973] QB 838.*

52. Divorce

The Court is not barred from considering the prospect of divorce on the dependency of a spouse (although there would of course have subsisted rights under *s.24 Matrimonial Causes Act 1974, Owen v Martin [1992] PIQR P151*

53. The FAA claim represents a valuable chose in action

Haxton v Philips Electronics [2014] EWCA civ 4

- (1) H was negligently exposed to asbestos while employed by P and died of mesothelioma in 2010. W also contracted mesothelioma as a result of exposure to dust on H's clothes and at trial had a very reduced life expectancy
- (2) W's claim under FAA as a dependent on H was quantified until her likely reduced life expectancy – representing her "actual loss"
- (3) However, on appeal, W was able in her own PI proceedings to recover damages for the reduced value of her FAA claim against P, as a valuable chose in action curtailed by the breach of duty.

The mechanics of dependency

54. The calculation of the dependency multiplicand

- (1) Take the Claimant's working capacity into account by adding their incomes together, applying the dependency percentage to the sum of both incomes and then subtracting the Claimant's residual earning capacity.
- (2) The conventional dependency percentage is 75% with dependant spouse and 1 or more children and 2/3 with no dependent children. These can be

displaced by a more rigorous analysis of the family's finances, *Harris v Empress Motor* [1983] 3 All ER 561; *Cox v Hockenhull* [1999] 3 All ER 577

(3) Alternative proportions may be appropriate

- (a) Where there are different retirement ages the multiplier may be split, eg: *Crabtree v Wilson* [1993] PIQR Q24
- (b) *Cox v Hockenhull* [2000] PIQR Q230 dependency 50% in a low income case where most of the significant expenses were joint.
- (c) *Farmer v Rolls Royce* QBD 26/2/03 85% dependency in a high income family with significant savings.
- (d) *Ath v MS* [2002] EWCA civ 792 60% where dependent children were never really reliant on what their mother could earn.

55. The date for assessing the dependency

- (1) The dependency should be assessed at the date of death, *Welsh Ambulance v Williams* [2008] EWCA civ 71
 - a. Deceased father ran a property development business. His 2 children became involved in it.
 - b. After his death the children managed the business successfully and remained as well off as before.

- c. Judge was correct to value the dependency as the cost of replacing the deceased's services within the business and assessing his personal expenditure at 12.5% of this.
- d. The adult children would have remained dependent on the skill of the deceased for the remainder of his working life (they had generated about £15,000 profit each but received about £75,000)
- e. "A dependent cannot by his or her conduct after the death affect the value of the dependency at the time of the death."

(2) The Court ought not to take into account the dependant's intended greater reliance on the deceased's earnings *Malone v Rowan [1984] 3 All ER 402*. This approach has received a fair amount of criticism. However, in *Howitt v Heads [1973] 1 QB 64* the earnings of a wife who only went out to work following a death as a result of necessity were not be taken into account.

56. Sources of dependency

(1) Partnership

The fact that the dependency increased the profits of the family business of which they had been partners with their deceased husband and father was irrelevant to the calculation of the dependency at death
Welsh Ambulance v Williams [2008] EWCA civ 71

(2) Corporate Income

The Court will consider the reality and not the form of the dependency. Where a wife was paid income by her husband's company to ensure that it was tax efficient, the Court accepted that it was properly part of her husband's earnings, less a deduction to reflect the market rate of the services the wife actually performed, *Malyon v Plummer* [1964] 1 QB 330.

(3) Investment capital

If the capital has passed on the death to the dependents it may not be possible to claim for the lost income deriving from it, unless that income was dependent upon the deceased's services, *Cape Distribution v O'Loughlin* [2001] EWCA civ 178.

(4) Dependency on benefits

- a. Benefits paid to the 'dependent' as a result of a business relationship with the deceased (eg invalid care allowance paid to the dependent for caring for the deceased), do not count..
- b. Benefits paid to the Deceased should be taken into account (eg: disability living allowance and severe disablement allowance, *Cox v Hockenhull* [1999] 3 All ER 577

57. Dependency Multipliers

(1) The multiplier is calculated at the date of death, *Cookson v Knowles* [1979] AC 556 HL. Despite the Law commission recommendation in 1999 that the multiplier should be calculated at trial, the Court of Appeal has held it bound by *Cookson* in *Ath v MS* [2002] EXCA civ 792. It has more recently repeated this while recommending that the issue be reconsidered by the House of Lords *A Train v Fletcher* [2008] EWCA civ 413.

(2) *Knauer v Ministry of Justice* [2014] EWHC 2553

In late February 2015 the Supreme Court gave permission for a direct appeal to it on the issue of whether to overturn the much criticised and now very aged Judgment in *Cookson v Knowles*. That decision fixed the multiplier for damages for dependency at the date of the death of the deceased rather than trial. It has been widely criticised, both by the Court of Appeal in *A Train v Fletcher* [2008] EWCA civ 413 and by the Law Commission's 1999 report "*Claims for wrongful death*", as having the result of illogically reducing damages. In *Knauer*, Bean J, adopted some of this criticism but naturally held himself bound by *Cookson*. On appeal, there is a very good prospect that the Supreme Court would overturn the decision, so that the use of the multiplier in cases of fatal accidents would accord with the rationale of the Ogden Tables.

(3) There are 5 essentials in calculating the multiplier, *Corbett v Barking HA* [1991] 2QB 408

(a) The likelihood of the provider of the support continuing to exist.

- (b) The likelihood of the dependant being alive to benefit from that support.
 - (c) The possibility of the providing capacity of the provider being affected by the changes and chances of life either in a positive or negative manner.
 - (d) The possibility of the needs of the dependant being altered by the changes and chances of life, again in a positive or negative way.
 - (e) An actuarial discount to compensate:
 - (i) for immediate receipt
 - (ii) the principle that capital be exhausted at the end of the dependency.
- (4) As a starting point, consider (a) and (c) together then consider (b) and (d) together then apply (e) to the lower of the 2.
- (5) Splitting the multiplier:
- (a) Where there are different retirement ages the multiplier may be split, eg: *Crabtree v Wilson [1993] PIQR Q24*
 - (b) For differing periods of dependency for adults and children

58. Two-family Households

Where parents live in separate households the Court must make an evaluation of the dependency of the dependent on the deceased. The fact that an estranged parent might thereby gain a benefit is irrelevant, per

Martin v Grey (unreported) QBD 13.5.98 where the dependant child lived with the deceased mother.

59. Dependency on services

(a) Damages are recoverable for the pecuniary value of the services provided by the deceased to the dependant, whether or not those services were replaced or the dependant has managed to forgo their need (*cf Martin v Grey*).

(b) A dependent is not prima facie entitled to provision making him better off, however, the commercial cost of replacing the services (eg by a housekeeper) will be awarded where reasonable. The provision of care by the surviving parent ceasing employment may lead to a calculation of the loss by reference to their loss of earnings where reasonable, *Mehemet v Perry [1977] 2 All ER 529*.

(c) Damages in respect of care should take into account the special nature of the care provided by a mother, *Regan v Williamson [1976] 1 WLR 305*.

60. Dependency on pension

Dependency on pension should be treated as if on earnings, *Pidduck v E Scottish Omnibuses Ltd [1990] 1 WLR 993* although the actual receipt of a surviving spouse's pension will be a benefit to be disregarded under s. 4 FAA 1976.. No recovery will be made for loss of the chance of receiving a widow's pension after retirement age when that is actually received prior to it, *Auty v NCB [1985] 1 WLR 784*.

61. Dependency on children

(1) Children residing with the dependent parent

The Court awarded dependency on the basis of a son's household contribution, reduced for the prospect of his having married and left home, *Dolbey v Goodwin* [1955] 1 WLR 553.

(2) The prospect of support in retirement

An award may be made if the prospect were real. An award was made to the immigrant parent of 2 deceased daughters who were medical practitioners, where the dependant would have resided with them and could not recover his money from Iraq, *Kandalla v British European Airways* [1980] 1 All ER 341.

62. Questionable sources of earnings

(1) The known proceeds of crime may amount to a dependency but are barred from being claimed by the doctrine of ex turpi causa *Burns v Edman* [1970] 2 QB 541, [1970] 1 All ER 886.

(2) The same applies where the widow knew that the earnings in part derived from benefit fraud, *Hunter v Butler* [1996] RTR 396

(3) Where the dependent is not complicit in the wrong doing it is possible that a claim for dependency may still arise, *LeBagge v Buses Ltd* [1958] *NZLR* 630 (a milkman delivering milk in breach of a working hours regulation; the contract on which the dependency was based was lawful; the method of performance was not)

(4) Where the Deceased had failed to account fully to the revenue the dependent could still claim dependency on the basis of the net income calculated as if lawfully declared, *Duller v SE Lincs Engineers* [1981] *CLY* 585.

63. Estate duty

A widow and son were able to claim as the loss of expectancy of a future pecuniary benefit the increase in estate duty (now inheritance tax) caused by the deceased dying within 7 years of an inter vivos gift, *Davies v Whiteways Cyder Co Ltd* [1975] *QB* 262.

Benefits resulting from the death

64. s. 4 FAA 1976

"In assessing damages in respect of a person's death in an action under this Act, benefits which have accrued or will or may accrue to any person from his estate or otherwise as a result of his death shall be disregarded."

65. The issue is extremely fact sensitive, *Wood v Bentall Simplex [1992] PIQR P32*.

66. Benefits are not restricted to pecuniary benefits

Where a child had lived with her unreliable mother, who died, subsequent to which she received a higher quality of care in the family of her father and step mother, this was held to be a benefit to be disregarded, *Stanley v Saddique [1992] 1 QB 1*.

67. Replacement of care by the father

Where following the death the father provided care which had previously wholly been provided by the mother, this was a benefit resulting from the death to be disregarded, *MS v ATH [2002] EWCA civ 792*.

68. A Widow's pension

Receipt of a widows pension in place of a deceased's husband's pension was a benefit to be disregarded, *Pidduck v Eastern Scottish Omnibuses [1990] 1 WLR 993*.

69. Adoption

Where a child who's parents were killed was subsequently adopted by her aunt and uncle, the adoption extinguished the claim for dependency on the mother's services and set off against the income of the uncle (now adoptive father) against the financial dependency on the natural father), *Watson v Wilmott* [1991] 1 QB 140, [1991] 1 All ER 473, QBD.

70. *Arnup v MW White Limited* [2008] EWCA civ 447

(a) D tortfeasor employer made 2 payments (total £229,000 odd) to widow from "death benefit scheme" and "employee benefit trust."

(b) The benefits accrued as a result of the death (S. 4 FAA 1976) and neither ought to be deducted from the dependency claim.

71. An award pursuant to a claim made under the *Pneumoconiosis etc. (Workers' Compensation) Act 1979* was not a "benefit" for the purpose of the s.4 Fatal Accidents Act 1976 and was therefore to be taken into account when assessing damages under the 1976 Act, *Cameron v Vinters Defence Systems Ltd* [2007] EWHC 2267

Apportionment

72. The Court will advance the majority of the award for the use of the surviving parent to provide for the child, *Rawlinson v Babcock & Wilcox Ltd [1966] 3 All ER 882*.

Disputes between dependents

73. In the event of a dispute as to who is a dependant, this can be decided as a preliminary issue: *Pounder v London Underground Ltd [1995] PIQR P217* per Sir Michael Davies. If there is a conflict between dependents they should be separately representation.
74. The Court is required to divide the award between dependents (*s. 3(2) FAA 1976*)
75. On a dispute between dependents the Claimant may apply to the Court for directions, *re Beddoe [1893] 1 Ch 547*.
76. A payment in to Court is in satisfaction of the cause of action and does not require to specify how it is divided (*s. 3(6) FAA 1976*).

Settlement

77. It is a condition precedent to the validity of an agreement between the claimant and defendant that:

(a) Each dependent who wishes to and is party to the claim has approved the agreement, *Jeffrey v Kent cc* [1958] 3 All ER 155.

(b) The Court has approved the settlement in respect of each protected party. Agreement is only binding on approval, *Dietz v Lennig Chemical Ltd* [1969] 1 AC 170

Appeal

78. An individual Dependent may appeal and the Court of Appeal increase the original award without altering the awards to other dependents, *Mead v Clarke Chapman & Co Ltd* [1956] 1 All ER 44.

Enforcement

79. Although the statute creates (or preserves) only 1 cause of action each dependent is entitled to damages for the loss to him personally, *Pym v Great Northern Ry Co* (1863) 4 B & S 396 at 407.

Insurance

80. *BAI (Run Off) LTD v Durham [2012] UKSC 14*

In mesothelioma compensation claims, employers' liability insurance policies covering employers for disease contracted or injury sustained during the relevant insurance period applied to cases where the disease was caused during the insurance period, not merely when the disease manifested itself. Additionally exposure of an employee to asbestos in breach of duty could properly have a sufficient causal link with subsequently arising mesothelioma for the policies to respond.

Appendix 1

Statutes

1 Right of action for wrongful act causing death

(1) If death is caused by any wrongful act, neglect or default which is such as would (if death had not ensued) have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured.

(2) Subject to section 1A(2) below, every such action shall be for the benefit of the dependants of the person ("the deceased") whose death has been so caused.

(3) In this Act "dependant" means—

(a) the wife or husband or former wife or husband of the deceased;

[aa) the civil partner or former civil partner of the deceased;]

(b) any person who—

(i) was living with the deceased in the same household immediately before the date of the death; and

(ii) had been living with the deceased in the same household for at least two years before that date; and

(iii) was living during the whole of that period as the husband or wife [or civil partner] of the deceased;

(c) any parent or other ascendant of the deceased;

(d) any person who was treated by the deceased as his parent;

(e) any child or other descendant of the deceased;

(f) any person (not being a child of the deceased) who, in the case of any marriage to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage;

[fa) any person (not being a child of the deceased) who, in the case of any civil partnership in which the deceased was at any time a civil partner, was treated by the deceased as a child of the family in relation to that civil partnership;]

(g) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.

(4) The reference to the former wife or husband of the deceased in subsection (3)(a) above includes a reference to a person whose marriage to the deceased has been annulled or declared void as well as a person whose marriage to the deceased has been dissolved.

[4A) The reference to the former civil partner of the deceased in subsection (3)(aa) above includes a reference to a person whose civil partnership with the deceased has been annulled as well as a person whose civil partnership with the deceased has been dissolved.]

- (5) In deducing any relationship for the purposes of subsection (3) above—
- (a) any relationship [by marriage or civil partnership] shall be treated as a relationship by consanguinity, any relationship of the half blood as a relationship of the whole blood, and the stepchild of any person as his child, and
 - (b) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.
- (6) Any reference in this Act to injury includes any disease and any impairment of a person's physical or mental condition.]

1A Bereavement

- (1) An action under this Act may consist of or include a claim for damages for bereavement.
- (2) A claim for damages for bereavement shall only be for the benefit—
 - (a) of the wife or husband [or civil partner] of the deceased; and
 - (b) where the deceased was a minor who was never married [or a civil partner]—
 - (i) of his parents, if he was legitimate; and
 - (ii) of his mother, if he was illegitimate.
- (3) Subject to subject (5) below, the sum to be awarded as damages under this section shall be [£11,800].
- (4) Where there is a claim for damages under this section for the benefit of both the parents of the deceased, the sum awarded shall be divided equally between them (subject to any deduction falling to be made in respect of costs not recovered from the defendant).
- (5) The Lord Chancellor may by order made by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament, amend this section by varying the sum for the time being specified in subsection (3) above.]

3 Assessment of damages

- (1) In the action such damages, other than damages for bereavement, may be awarded as are proportioned to the injury resulting from the death to the dependants respectively.
- (2) After deducting the costs not recovered from the defendant any amount recovered otherwise than as damages for bereavement shall be divided among the dependants in such shares as may be directed.
- (3) In an action under this Act where there fall to be assessed damages payable to a widow in respect of the death of her husband there shall not be taken account the re-marriage of the widow or her prospects of re-marriage.
- (4) In an action under this Act where there fall to be assessed damages payable to a person who is a dependant by virtue of section 1(3)(b) above in respect of the death of the person with whom the dependant was living as husband or wife [or civil partner] there shall be taken into account (together with any other matter that appears to the court to be relevant to the action) the fact that the dependant had no enforceable right to financial support by the deceased as a result of their living together.
- (5) If the dependants have incurred funeral expenses in respect of the deceased, damages may be awarded in respect of those expenses.
- (6) Money paid into court in satisfaction of a cause of action under this Act may be in one sum without specifying any person's share.]

5.5 Contributory negligence

Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, and accordingly if an action were brought for the benefit of the estate under the [Law Reform \(Miscellaneous Provisions\) Act 1934](#) the damages recoverable would be reduced under [section 1\(1\)](#) of the Law Reform (Contributory Negligence) Act 1945, any damages recoverable in an action . . . under this Act shall be reduced to a proportionate extent.

Limitation Act 1980

12 Special time limit for actions under Fatal Accidents legislation

(1) An action under the [Fatal Accidents Act 1976](#) shall not be brought if the death occurred when the person injured could no longer maintain an action and recover damages in respect of the injury (whether because of a time limit in this Act or in any other Act, or for any other reason).

Where any such action by the injured person would have been barred by the time limit in section 11 [or 11A] of this Act, no account shall be taken of the possibility of that time limit being overridden under section 33 of this Act.

(2) None of the time limits given in the preceding provisions of this Act shall apply to an action under the [Fatal Accidents Act 1976](#), but no such action shall be brought after the expiration of three years from—

- (a) the date of death; or
- (b) the date of knowledge of the person for whose benefit the action is brought; whichever is the later.

(3) An action under the [Fatal Accidents Act 1976](#) shall be one to which sections 28, 33 and 35 of this Act apply, and the application to any such action of the time limit under subsection (2) above shall be subject to section 39; but otherwise Parts II and III of this Act shall not apply to any such action.

Claims for lost years

David Regan considers the development of case law where a defendant's negligence has caused death



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Appeals in cases currently before the courts are likely to have profound consequences for litigation where the defendant's negligence has caused death or shortened the claimant's lifespan.

The Supreme Court is to revisit *Cookson v Knowles* [1979] AC 556 and may well be asked to revisit *Croke v Wiseman* [1982] 1 WLR 71. Solicitors acting in cases with fatal consequences urgently need to consider the immediate effects of these appeals, whatever their outcome.

Date of death

In late February 2015, the Supreme Court gave permission for a direct appeal on the issue of whether to overturn the much-criticised and now very aged judgment in *Cookson*. That decision fixed the multiplier for damages for dependency at

the date of the death of the deceased rather than trial.

It has been widely criticised, both by the Court of Appeal in *A Train v Fletcher* [2008] EWCA Civ 413 and the Law Commission's 1999 report entitled 'Claims for wrongful death', as having the result of illogically reducing damages.

In *Knauer v Ministry of Justice* [2014] EWHC 2553, Mr Justice Bean adopted some of this criticism, but naturally held himself bound by *Cookson*. On appeal, the weight of existing authority creates a very good prospect that the Supreme Court will overturn the decision, so that the use of the multiplier in cases of fatal accidents accords with the rationale of the Ogden tables.

The difference in the multiplier between death and trial (often a factor of three to four or more) may have a significant effect on the level of damages awarded. Solicitors for claimants presently pleading schedules of loss and negotiating compromise agreements may well wish to hold fire or assume a change in the law. Where the case involves an infant, or other protected party, the court might be reluctant to approve settlement until the law is decided.

Shortened life

In *Totham v King's College Hospital* [2015] EWHC 97, the High Court has recently revisited the question of

whether a child, whose life has been shortened by negligence, should be able to make a claim for damages for loss of earnings in the 'lost years' between the date when they will die as a result of the negligence and their life expectancy but for the breach of duty. This challenges the decision of the Court of Appeal in *Croke*.

The judgment in *Croke* has been widely criticised as placing awards of damages for children on a different basis than those which can be claimed by adults. In 2007, in its judgment in *Iqbal v Whipp's Cross* [2007] EWCA Civ 1190, the Court of Appeal criticised *Croke* but held that it was bound by it, following which appeal to the House of Lords was compromised.

Mrs Justice Laing made many of the same criticisms in *Totham*, although she naturally accepted that she was bound by *Iqbal*. She lamented that it appeared that a profitless appeal to the Court of Appeal was likely to be necessary before the issue could be considered by the Supreme Court.

If the appeal progresses, overturning *Croke* will have profound consequences in such cases as those involving cerebral palsy. Solicitors acting for victims should now consider including claims for lost years in their schedules of loss to anticipate the likely change in the law. This is both because defendants may wish to 'buy off'

the risk of appeal and due to the necessity of the court approving any settlement.

If *Croke* is overturned, awards of damages for children whose life is shortened by a breach of duty will be significantly greater than those made where the death occurs immediately at the time of the tort. Parents bringing a claim arising from the death of their child are almost inevitably unable to establish a dependency on the child's earning potential after the death. However, if *Croke* is overturned, parents acting as their child's litigation friend will be able to receive an award for their child's lost years if damages are awarded while the child lives. This will create a further anomaly in the operation of the Fatal Accidents Act 1976, systematic reform of which is long overdue.

Anonymity orders

Finally, in *JX MX v Dartford and Gravesham NHS Trust* [2015] EWCA Civ 96, the Court of Appeal has developed the law so that the making of an anonymity order should become normal in cases where an award of damages is made to a child or protected party. Protected litigants no longer need to show the existence of a specific risk of tangible harm to them, such as a risk of being exploited were it known that they had received a substantial award of damages. **SJ**



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David Regan

Call 1994 (Inner Temple)

Qualifications MA (Oxon), Dip Law

Professional Memberships Personal Injury Bar Association, Employment Law Bar Association, Western Circuit

Practice Overview

David practices in all areas of the law of personal injury and has extensive experience of medical and other professional negligence actions. He acts for both claimants and defendants, writes for the New Law Journal and the Solicitor's Journal and regularly lectures on aspects of personal injury law. David's practice is complemented by his expertise in employment law, where he has particular interest in issues arising from disability in the workplace.

Areas of Practice

Clinical Negligence

David has extensive experience acting for clinicians and for claimants in all aspects of clinical negligence litigation. He has particular expertise in cases of fatal injury and complex causation disputes. He has published on both subjects in the New Law Journal and the Solicitor's Journal. He regularly acts in cases with catastrophic consequences and is happy to provide informal advice by telephone. He combines an approachable manner with academic rigour.

Recommendations

- "David maintains a broad practice across clinical and professional negligence, personal negligence and employment law. He is instructed on behalf of both claimants and defendants. He is also a contributor to the New Law Journal and Solicitor's Journal and regularly lectures." **Chambers UK, Clinical Negligence (2016)**
- "David's areas of strength include highways claims, fatal accidents, industrial disease and medical negligence." **Legal 500, Personal injury and Clinical Negligence (2015)**
- "David takes on work for both the claimant and defendant sides. Alongside clinical negligence, he also practises in the areas of personal injury and professional negligence. 'He is diligent and approachable. You use him because you know he will do a good job.'" **Chambers UK, Clinical Negligence (2015)**
- "Respected barrister in medical negligence and personal injury, David is regularly instructed by the NHS. 'He gives brilliant advice. His conferences are great, and he puts clients at their ease.'" **Chambers UK, Clinical Negligence (2014)**
- "David is experienced in personal injury and clinical negligence, particularly fatal accidents and nuisance caused by animals." **Legal 500, Personal Injury and Clinical Negligence (2014)**
- "David is recommended." **Legal 500, Personal Injury and Clinical Negligence (2013)**

Personal Injury

David is regularly instructed in cases involving vulnerable claimants including cases of severe psychological disorder, rape, sexual abuse and distressing reproductive, genito-urinary and bowel disorders. David is happy to



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advise by telephone on an informal basis. He is an approved Pupil Supervisor and has trained as an Advocacy Trainer for the Western Circuit.

Areas of particular interest and expertise:

- **Limitation, Issue Estoppel, Abuse of Process and Civil Procedure**
- **Fatal Accidents:** Complex persisting claims for dependency.
- **Complex historic industrial disease:** Mesothelioma and other consequences of asbestos exposure, vibration white finger, noise induced hearing loss, repetitive strain injuries.
- **Catastrophic Injury:** Extensive experience of cases of tetraplegia, quadriplegia and brain damage including complex multiple injuries, cognitive disabilities and personality change.
- **Liability for Animals:** Strict liability and negligence. Horses, livestock, dogs (including guard dogs). Also liability for nuisance caused by wild animals.
- **Physical and sexual abuse:** Care and residential homes, actions involving local authorities and schools.
- **Psychological Injury:** Within and outside the workplace. Complemented by David's practice in employment law, particularly in the field of Disability Discrimination Act 1995.
- **Highways:** the liabilities of Highway Authorities; nuisance; liability for trees and adjoining structures.

Reported Cases

- *B v B* [2005] EWCA civ 237 (Court of Appeal 10 March 2005), regarding abuse of process in multiple actions
- *Godwin v Swindon Borough Council* [2002] 1 WLR 997 (Court of Appeal 12 October 2001), regarding service of civil proceedings.

Publications

- The Ogden conundrum, *The New Law Journal* (14 November 2014)
- Fatal accidents, *Personal Injury Law Journal* (31 July 2012)
- Horse-related injuries, *New Law Journal* (8 June 2012)
- OGDEN Tables 7th Edition *Solicitors Journal* (16 November 2011)
- Liability for animals *Solicitor's Journal* (15 March 2011)
- Fatal Accidents *Solicitor's Journal* (21 April 2010)
- Clinical Causation, a moving target? *New Law Journal* (February 2010)
- No Limits: developments under s.33 Limitation Act 1980 *Solicitor's Journal* (3 July 2009)
- Litigating Against Insolvent Companies *Solicitor's Journal* (3 February 2009)

Employment

David has extensive experience of advocacy and advisory work in the field of employment law, in the fields of racial, sexual and disability discrimination, redundancy, 'whistle blowing', transfer of undertakings, constructive and unfair dismissal. He also has experience of claims for unlawful dismissal in the County Court.

The profile of David's practice is varied. He acts for both claimants and respondents and regularly acts for a number of local authorities and statutory bodies. He has also acted for both statutory bodies and defendants in the field of Professional Disciplinary Proceedings and has particular experience of lengthy and complicated Police Disciplinary Proceedings and Appeals.



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David's particular area of interest is in the field of disability discrimination, which is complemented by his practice in the field of personal injury and medical negligence.

In common with all members of Chambers, David is happy to discuss matters related to employment law with instructing solicitors on an informal basis by telephone.

Areas of Particular Interest

- Law relating to Discrimination (Particularly Disability Discrimination)
- Professional Disciplinary Hearings

Articles

- 'Sleeping on the job', New Law Journal (3 October 2008)

Recommendations

- "David maintains a broad practice across clinical and professional negligence, personal negligence and employment law. He is instructed on behalf of both claimants and defendants. He is also a contributor to the New Law Journal and Solicitor's Journal and regularly lectures." **Chambers UK, Clinical Negligence (2016)**
- "David's personal injury practice complements his interest in disability discrimination law." **Legal 500, Employment (2015)**
- "David regularly appears in Employment Tribunals and acts for both respondents and claimants. His particular field of expertise is in disability discrimination and psychological injury at work." **Chambers UK, Employment (2014)**
- "David, who has a particular interest in psychological injury at work and disability discrimination cases. Regan often works with local authorities and other public bodies." **Chambers UK, Employment (2013)**
- "David Regan is 'excellent with clients' and 'fantastic in cross-examination,' solicitors say. His clients include trades unions, local authorities and private sector employers." **Chambers UK, Employment (2012)**
- "Highly praised David Regan, 'is a fantastic advocate and has an excellent rapport with clients.' He has a breadth of employment experience but is particularly commended for his expertise in disability discrimination cases." **Chambers UK, Employment (2011)**
- "David has a varied practice, with a particular interest in disability discrimination" **Legal 500, Employment (2014)**
- "David is a good, clear advocate." **Legal 500, Employment (2013)**

Professional Negligence

David's practice includes cases of negligence in the conduct of litigation in the fields of personal injury, employment law and more widely in the law of tort. He has acted for very vulnerable litigants mistrustful of the legal profession following their previous experiences. He has experience in actions outside of the conduct of litigation including negligent conveyancing and the negligent drafting of agreements. He has conducted appeals in the Court of Appeal in actions relating to issues of issue estoppel arising from previous negligence.

David has also acted in cases of the negligence of estate and letting agents and surveyor's and architect's negligence.



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Public Access

David is qualified to undertake Public Access work in appropriate cases, for further information, please visit our Public Access page.

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Clinical Negligence



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"St John's Chambers boasts an impressive and growing reputation in the South West for its work representing both claimants and defendants across the clinical negligence sphere." Chambers UK, Clinical Negligence (2016)

Our clinical negligence team provides expert advice and representation in cases at all levels of complexity and seriousness in the South West and nationally.

All aspects of clinical negligence work are undertaken including:

- Catastrophic injuries
- Cerebral palsy
- Obstetric and neonatal injuries
- Oncology
- Misdiagnosis and delayed diagnosis claims
- Fatal injuries including inquests
- Surgical negligence
- Cases in which complex issues of causation arise

Members offer a comprehensive knowledge of medical fields including gynaecology, neurology and oncology. The team also has experience in dental negligence, ophthalmic negligence and in medical product liability.

We act for claimants and defendants and work on behalf of a very wide range of clients. These include private individuals, NHS Trusts, medical defence organisations and private medical and related institutions.

Members also provide representation at coroners' inquests in which death has followed medical treatment.

Members are prepared to consider cases on a conditional fee basis.

Our team regularly delivers lectures to solicitors and other professionals on recent developments in the law and practice. If you are interested in arranging a lecture then please contact our clerks.

"Annette Bushell's clerking team is very efficient. They do things in the right way and at the right time. 'The clerks there are fantastic.'"

Chambers UK (2015)

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Meet the Team



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The team consists of 2 silks and 12 juniors, and offers expertise at all levels of call with experience in every area.



Christopher Sharp QC
Year of call: 1975



Christopher Wilson-Smith QC *
Year of call: 1965



Ian Bullock
Year of call: 1975



Timothy Grice
Year of call: 1975



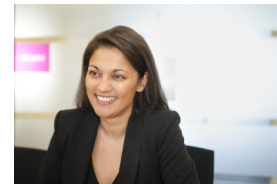
Tom Leeper
Year of call: 1991



Andrew McLaughlin
Year of call: 1993



David Regan
Year of call: 1994



Emma Zeb
Year of call: 1998



**Vanessa McKinlay,
Head of Department**
Year of call: 2000



Patrick West
Year of call: 2007



Jimmy Barber
Year of call: 2008



Ben Handy
Year of call: 2008



James Hughes
Year of call: 2011



Robert Mills
Year of call: 2014

*** Associate members**

“St John’s members are noted for their expertise across a wide range of clinical negligence issues, including cerebral palsy, oncology, surgical negligence and catastrophic injury.” **Chambers UK 2015**