## **Darrel Crilley**

Called: 1996



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### **Practice Overview**

### **Personal Injury (Band 1)**

Darrel Crilley is a specialist in catastrophic injury claims, especially those relating to the brain or spine. He regularly acts in industrial disease claims, amputations and cases involving accidents at work, including upper limb disorder and hand-arm vibration claims. He acts for both claimants and defendants.

#### **Clinical Negligence (Band 1)**

Darrel Crilley is well regarded by counsel and solicitors for his work on a range of clinical negligence matters, acting exclusively on behalf of claimants. He has acted in complex spinal cord injury claims and is well versed in cases involving the misdiagnosis of cancer.

#### Strengths:

&Idquo; Darrel Crilley's place as a leading junior for complex brain injury work in Manchester is not in doubt. He challenges the evidence, adopts a sensible and progressive approach and adds clarity. "

&Idquo; Darrel Crilley is a great barrister. His attention to detail is fantastic and he is not afraid to have a go. He is a guiding hand and a great advocate. He is a true team player. "

" Darrel is always extremely well prepared, and in court he is poised and his advocacy is both measured and persuasive. &rdquo:

&Idquo; Darrel is an impressive individual. He is a very efficient and shrewd opponent. "

&Idquo;He is outstanding. He is a delightful opponent and he cuts to the case. Darrel knows exactly what he's doing. He is a really excellent barrister."

&Idquo; Darrel is fantastic with clients and he instils confidence. "

#### Legal 500

### Personal Injury (2)

Darrel is extremely adept on his feet.

#### **PRACTICE AREAS**

Personal Injury Industrial Diseases Serious Injury Clinical Negligence

#### **ASSOCIATIONS**

Personal Injuries Bar Association

## **Personal Injury**

Darrel is a true specialist in personal injury with two and a half decades of uninterrupted experience in this field. For the last 15 years his practice has not been diluted by other forms of work.

Within this particular sphere he has a truly balanced practice acting for Claimant's and Defendants in equal measure. He is noted for his willingness to immerse himself in unusual and technically difficult cases as a result of which he is regularly instructed to advise on professional negligence and awkward insurance coverage points.

He has acted in cases involving most kinds of injury over the last quarter century ranging from complex fractures, through chronic pain to more esoteric kinds of damage such as the acceleration of dementia. He has acquired regular experience of managing the outcome on both sides in pain cases. This includes both 'straightforward' cases of complex regional pain syndrome as well as more diffuse chronic pain cases wherein moderate or minor injury becomes psychiatrically perpetuated. He has particular experience in complex lower limb trauma and amputation.

#### **Industrial Disease**

Between 4 and 14 years call the core of Darrel's practice was a specialisation in Employer's Liability and Industrial disease litigation. He regularly delivered seminars and updates in both areas of work. During his first decade in practice, he was privileged to receive numerous and consistent instructions in Upper Limb Disorder and HAVS claims. He still retains interest in this area of practice.

## **Serious Injury**

Over the last 15 years he has consolidated a practice which deals with injuries of the highest levels of severity expected to be handled by senior junior counsel. This experience has comprised:

#### (i) Amputation.

He has particular experience of lower limb amputation cases and has advised in several above and below knee cases in the last three years. He is thoroughly conversant with the appropriate experts to procure in such cases. He has advised in loss of upper limb cases and is familiar with the difficult prosthetics arguments they inevitably entail.

## (ii) Polytrauma.

Darrel has acted for and against Claimant's who have sustained multiple serious injuries. He is now routinely instructed in such matters. He is able to advise on which experts to source and in which order of priority.

### (iii) Traumatic Brain Injury

Increasing seniority has entailed far greater knowledge and experience of traumatic brain injuries than early years practice could ever permit. Competence in dealing with both moderate / severe brain injury and more subtle, mild-moderate cases where the presence of organic cognitive deficits is more debatable can be assumed.

Over the last 15 years weekly experience has been gained of dealing with the requisite experts in Neurology, Neuropsychology and neuropsychiatry. Darrel has a particular interest in the issue of mental capacity and its management within head injury litigation.

### (iv) Spinal Injury

Darrel also undertakes work in a range of spinal injury cases involving Cauda Equine, arachnoiditis and complete spinal cord damage. He has been junior in tetraplegic cases and is versed in the complexities of the arguments over suitable care regimes.

Recent representative cases from 2020-2022:

**McNeill v Chicken Villas** Public liability claim arising from a wall collapsing onto Claimant's lower leg when aged 17. Below Knee amputation. Liability eventually apportioned 77.5/22.5 in C's favour. Claim compromised at JSM in late 2020 in the gross sum of £3.6 million. Crux issue concerned recovery of an Empower microprocessor foot with 6 year replacement costs of £90,000.

**Aspinall v Posh Burnley** . Severe traumatic brain injury to young male arising from public liability accident. C made a surprising recovery through determination and good rehabilitation. Claim focused primarily upon thwarted career progression in aeronautical engineering. Expected to live independently for the most part. Compromised at JSM in the gross sum of £1.1 million.

**Nelson v Ullman**. Moderate-severe TBI to a male pedestrian in his 50s following RTA when acting as a delivery driver. Liability in issue. Significant contributory fault inescapable. C was adjudged to have capacity but to be likely to need some significant ongoing support. Unlikely to work again. Compromised at JSM in late 2021 in the sum of £600,000 net of liability dispute and prior to the liability trial in early 2022.

**Broughton v Esure.** Damages case involving complex causation issues arising from the impact of liability admitted RTA upon fixation of C's spine earlier in her life. C was in her 50s. C's case was that she would have worked and lived independently despite her fusion/instrumentation had the RTA not forced revision surgery with more extensive fixation of the spine. She was forced to retire early from her university appointment, would now need adapted housing and had substantial additional care requirements. Matter did not settle at a JSM. D subsequently increased its offer. Compromised at £1.1 million.

Harris v Harris Claim by teenage female, 22 at settlement. Claim alleged likelihood of long-term inability to work on account of developing chronic pain variously diagnosed as fibromyalgia, somatoform disorder and simple central sensitisation. D's experts opined that C had an inherent likelihood of somatoform illness by reason of medically unexplained symptoms in formative years. D also asserted that a further programme of rehabilitation, notwithstanding passage of several years, still had a good prospect of reversing the abnormal illness beliefs/behaviour which underlay C's disability. At point of JSM C was unfit for work and it was uncertain whether or when she would return. Equally, she was heavily dependent upon both physical and emotional support which needed to be phased out under the initiative to correct her abnormal illness beliefs. The size of any ultimate award would be dependent upon outcome from the prolonged treatment. C elected to engage in a JSM before such treatment had run its course. Settled for £450,000 at JSM.

**Sibley v Gill** Moderate-severe TBI. Compromised at £2.6 million net of CRU and interim payments. Crux issues concerned whether case suitable for PPO's and the extent to which C needed extensive support package in larger, modified accommodation despite having comparatively little physical disability arising from the injury.

## **Clinical Negligence**

Clinical negligence comprises a distinct part of his practice. His experience spans a wide array of subject matter from routine diagnostic and treatment errors to the misdiagnosis of complex forms of cancer. He brings to this area of practice the cumulative insights of over 25 years. He has enjoyed being junior counsel in birth injury claims arising from clinical mismanagement of birth. His experience embraces acting in part 20 claims where the interrelationship between primary tortious damage and supervening clinical negligence is at the heart of matters.

Recent representative cases from 2020-2022:

**Strafford v Haq** Case concerned a fatal DVT resulting from inadequate examination of a lower limb lump. Breach of duty conceded over 6 years after events after inquest, criminal proceedings arising out of alteration of GP records and eventual GMC action against the relevant GP. Complex quantum case since the deceased was the sole, specialised carer for her young adult daughter who has serious neurological condition. Issues concerned recoverability of a full commercial care package and case manager to replace the services of the deceased. Quantum and multiplier for Deputyship costs in a FAA claim also be a live issue. Compromised in the sum of £1,050,000 following failed JSM.

**Smith v various GP's.** Claim arose from fatality resulting from delayed diagnosis of meningitis by either of two GPs who managed the Deceased before the infection caused profound neurological disability. Difficult breach and causation issues. Liability not conceded. Crux issue whether serious systemic illness distinct from a specific diagnosis of meningitis should have resulted in earlier emergency referral. Case compromised at JSM mid 2020.

**Webb v Warrington and Halton NHS Foundation Trust** Fatal Accidents Act claim arising out of deficient management of abdominal complaints. Liability eventually admitted. Case thereafter concerned two principal quantum issues. First, proof of the career pathway and promotions which the Deceased would have followed but for his death in his early 20s. Second, the ambit of the claim to depend upon his services for remainder of life. Claim compromised for £760,000 at JSM in February 2020.

**Hardy v Doyle (1) Owen (2)** Fatal Accident arising from alleged poor management of the deceased's chest infection complaints by two nurse practitioners at a GP practice over a 4-5 day period. Breach of duty contested. Key issue concerned the extent to which signs of underlying lower respiratory tract infection should have been identified and acted upon. Presentation of the Deceased was atypical of pneumonia on some of the days. Breach and causation required expert chest physician evidence along with nursing expertise. Claim compromised in mid 2020 at JSM without admission of liability in the sum of £520,000.

## **Directory Comments**

Chambers and Partners 2025 (PI) - Band 1

Darrel Crilley is a specialist in catastrophic injury claims, especially those relating to the brain or spine. He regularly acts in industrial disease claims, amputations and cases involving accidents at work, including upper limb disorder and hand-arm vibration claims. He acts for both claimants and defendants.

"Darrel offers a calm and measured approach to complex areas of catastrophic injury. He is reliable and excellent in conferences and JSM. Darrel is well respected by those instructing and his peers."

"Darrel is very strong in dealing with cases where causation is in dispute and has a forensic eye for evidential detail. He is also very good at articulating this analysis."

"Darrel is always on top of his brief, extremely thorough and across the detail of any case. He brings excellent judgement and experience and is a reassuring presence on any case."

Chambers and Partners 2025 (Clin Neg) - Band 1

Darrel Crilley is well regarded by counsel and solicitors for his work on a range of clinical negligence matters, acting exclusively on behalf of claimants. He has acted in complex spinal cord injury claims and is well versed in cases involving the misdiagnosis of cancer.

"Darrel is fantastic with clients. He is approachable, reliable and always provides excellent advice."

Chambers and Partners 2024 (PI) - Band 1

Darrel Crilley is a specialist in catastrophic injury claims, especially those relating to the brain or spine. He regularly acts in industrial disease claims, amputations and cases involving accidents at work, including upper limb disorder and hand-arm vibration claims. He acts for both claimants and defendants.

"Darrel is very skilled and capable of handling complex medical issues."

"Darrel's preparation is meticulous. He is hugely popular with clients for his commercial awareness and the strategic input he brings to his cases."

"He is extremely well-prepared and very strategically strong. He sees the bigger picture and has very good court presence."

Chambers and Partners 2024 (Clin Neg) - Band 2

Darrel Crilley is well regarded by counsel and solicitors for his work in a range of clinical negligence matters, acting exclusively on behalf of claimants. He has acted in complex birth injury claims and is well versed in cases involving the misdiagnosis of cancer.

"Darrel is an excellent all-round advocate. He is extremely knowledgeable, with an excellent tactical brain."

"His client care and ability to manage client expectations is great. He works well on difficult cases."

"He is always very well prepared and his technical knowledge is excellent."

Darrel Crilley is well regarded by counsel and solicitors for his work in a range of clinical negligence matters, acting exclusively on behalf of claimants. He has acted in complex birth injury claims and is well versed in cases involving the misdiagnosis of cancer.

"Darrel has a great manner with clients. He leaves no stone unturned in his analysis of cases."

"Darrel is very knowledgeable. He is always well prepared for conferences and turns work around quickly." Chambers & Partners 2023 (Clin Neg) - Band 2

**Strengths:** "Incredibly bright and has a superb analytical brain. He thinks of things that solicitors may not have thought of." "Very authoritative, incisive in his questioning and not afraid to explore or consider unusual points when required to construct a case. He thinks outside of the box."

**Recent work:** Instructed in a fatal claim arising from the delayed diagnosis of meningitis by either of two GPs who managed the deceased before the infection.

Chambers & Partners 2022 (Clin Neg) - Band 2

Darrel Crilley is a specialist in catastrophic injury claims, especially those relating to the brain or spine. He regularly acts in industrial disease claims, amputations and cases involving accidents at work, including upper limb disorder and hand-arm vibration claims. He acts for both claimants and defendants.

"Darrel is commercially astute."

"His attention to detail is second to none."

"Darrel is a superb advocate." Chambers & Partners 2023 (PI) - Band 1

**Strengths:** "He has a thorough, forensic approach." "Highly experienced, detailed, analytical and brilliant with clients." "Darrel is meticulous in his preparation and advice, often seeing a different angle to a case." **Recent work:** Instructed in a public liability claim arising from a wall collapsing onto the claimant's lower leg

when aged 17. Chambers & Partners 2022 (PI) - Band 1

Well-regarded by counsel and solicitors for his work in a range of clinical negligence matters, including delayed diagnosis. He has acted in complex birth injury claims, among other cases.

**Strengths:** "He is very good at putting experts through their paces and is a very careful barrister who is always aware of the legal ramifications."

**Recent work:** Achieved a settlement of £850,000 for a patient in a difficult cauda equina case where initially no causation or liability were admitted by Salisbury NHS Foundation Trust.

Chambers & Partners 2020 (Clin Neg)

A specialist in catastrophic injury claims, especially those relating to the brain or spine. He regularly acts in industrial disease claims, amputations and cases involving accidents at work, including upper limb disorder and hand-arm vibration claims. He acts for both claimants and defendants.

Strengths: "He has a meticulous eye for detail." "An excellent advocate."

**Recent work:** Instructed in a case concerning a claimant who suffered a below-knee amputation following an RTA.

Chambers & Partners 2020 (PI)

"He is very thorough and understanding with clients." "He is well prepared, calm and assured."

Chambers & Partners 2019 (PI)

Well-regarded by counsel and solicitors for his work in a range of clinical negligence matters, including delayed diagnosis. He has acted in complex birth injury claims, among other issues. "Detailed examination of expert evidence." "Very thorough." "He is realistic and a good judge of cases." Chambers and Partners 2019 (Clin Neg)

A specialist in catastrophic injury claims, especially those relating to the brain or spine. He is regularly in industrial disease claims and cases involving accidents at work, including upper limb disorder and hand-arm vibration claims. He acts for both claimants and defendants.

**Strengths:** "He has a very forensic mind and is a very savvy negotiator." "Intellectual, but compassionate with clients. He has an encyclopaedic and wide-ranging knowledge of personal injury." Chambers and Partners 2018 (PI)

She has lectured extensively to lawyers and doctors on clinical negligence and personal injury and for many years she taught consent to undergraduate dental and medical students. She teaches doctors on court craft and writing reports in conjunction with Inspire Medilaw a provider of first class conferences for lawyers and doctors.

Since 1995 she has been the contributing editor on clinical negligence to the Reparation Bulletin in Scotland and she contributed the chapter on Medical Law and Human Rights to the main Scotlish textbook on Human Rights.

She has written a book on the law on consent post *Montgomery* and this is published by Law Brief Publishing and is also available on amazon with authors proceeds going to children with special needs.

Lauren undertakes conferences and hearings in-person, remotely and a hybrid of remote/in-person working.

Lauren has a blog where she posts articles on issued of law and medicine. laurensutherlandqc-lawandethics.com

## **Education and Appointments**

Head of Medical Negligence, PEOPIL (Pan European Organisation of Personal Injury Lawyers), February 202	Head of Medical Negligence.	. PEOPIL (	Pan Europe	an Organisation of	Personal Injur	v Lawvers)	. Februar	v 2020
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2020 - CEDR accredited mediator

Contributing Editor to the Reparation Bulletin on Medical Negligence produced by W Green. Involves reporting and commenting on current medical negligence cases.

Commonwealth Lawyers Association - PEOPIL

Member of APIL

Member of American Association of Justice (AAJ)

## **Administrative**

Petition of Laureen Joan Fargie [2008] CSOH 117

Petition for review of the eligibility criterion of the Skipton Fund which restricted payment to representatives of persons who died having been infected with Hepatitis C as a result of infected blood products or tissue from the NHS.

#### **Petition for Judicial Review of Fairlie**

Judicial Review in relation to the administration of the Skipton Fund in relation to compensation payments for Hepatitis C

## Petition for Judicial Review of Hayleigh Reynolds

Judicial Review in relation failure to provide drug treatment to a young girl

### Petition Cameron Fyfe v The Council of the Law Society and Others (Inner House) 2017 CSIH 6

## **Personal Injury**

Widdowson v Liberty Insurance NHS Grampian NHS Highland [2021] CSOH 15

This was a fatal case and an action was brought against bot the insurers of a car involved in a road traffic accident which caused injury to Mr Widdowson and also two hospitals for failures in care after the accident. All have eventually admitted liability for the death. The case is important in considering issues of apportionment of responsibility amongst the defenders and the principles to be applied.

Hughes v Turning Point Scotland [2019] CSOH 42, 2019 S.L.T. 651

Claim for Damages in respect of a duty of care owned by a charity to a man who attended in withdrawal from alcohol. Issues of whether *Huntley v Hanley* test applied to the actions of the charity, whether they were rescuer in law, duty of care and contributory negligence.

#### Gloria Urquhart v Fife Primary Care NHS Trust

(Lord Brodie) Nursing personal injury case Public inquiries & Fatal Accident Inquiries

## **Clinical Negligence**

**Almond-Roots v El Jamel and NHS Tayside** CSOH 130 https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2021csoh130.pdf?sfvrsn=4c25c0a\_1

This was a claim for cauda equina as a result of failures in diagnosis and surgery against a surgeon on a private basis and against the hospital where the pursuer was treated. Eventually liablity was admitted. Damages were eventually agreed but the case proceeded on apportionment of liability between the defenders. Damages were nearly 3 million pounds which was one of the highest settlements in a cauda equina case.

## Jennifer McCulloch v Forth Valley Health Board [2021] CSIH 21

https://scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2021csih021.pdf?sfvrsn=0 This was the appeal heard by the Second Division of the Inner House in Scotland in the previous case related to misdiagnosis of a pericardial effusion and consent

#### Widdowson v Liberty Insurance NHS Grampian NHS Highland [2021] CSOH 15

https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2021csoh015.pdf?sfvrsn=0

This was a fatal case and an action was brought against both the insurers of a car involved in a road traffic accident which caused injury to Mr Widdowson and also two hospitals for failures in care after the accident. All have eventually admitted liability for the death. The case is important in considering issues of apportionment of responsibility amongst the defenders and the principles to be applied.

#### Jennifer McCulloch and others v Forth Valley Health Board [2020] CSOH 40

Proof over 8 days in which the pursuers claimed that there had been negligence in a cardiologist's care. There

were difficult issues relating to diagnosis of a pericardial effusion and consent https://www.bailii.org/scot/cases/ScotCS/2020/2020\_CSOH\_40.html

#### Vincent Friel v Dr Brown [2019] CSOH 30; [2020] CSIH 7

Procedure Roll Debate and Reclaiming Motion on the effect of S10 of the Law Reforms (Misc Prov) (Scotland) Act 1968 and what constitutes abuse of process in Scotland

### Allan Johnston v NHS Grampian [2019] CSOH 90

Clinical Negligence case on consent

## James Carr v R H Independent Health Care Limited [2018] CSOH 82

Procedure Roll Debate on the procedural issues of the effect of a decree of reduction

#### Montgomery v Lanarkshire Health Board [2015] UKSC11

Landmark case on consent to medical treatment in front of 7 judge bench at UKSC. Cerebral palsy case involving diabetic mother with large baby who was not advised of the risks of mechanical problems in labour or shoulder dystocia. Shoulder dystocia occurred during delivery and the child was born with cerebral palsy and a brachial plexus injury. Inner House decision [2013] CSIH 3; 2013 SC 245

## Ryan Coyle v Lanarkshire Health Board [2014] CSIH 78

Appeal by the Health Board against the decision of Lord Tyre in the first instance. Appeal related to the question of whether he correctly interpreted the evidence in relation to the timing of delivery. The appeal was unsuccessful.

#### Ryan Coyle v Lanarkshire Health Board [2013] CSOH 167

Cerebral palsy case involving delay in delivery of child. The case involved allegations of obstetric and midwifery negligence. Was one of the few cerebral palsy cases that have proceeded successfully to proof.

#### Evelyn Telfer on behalf of Mirren Telfer v The Royal Infirmary of Edinburgh NHS Trust

Cerebral palsy case proceeded to proof on all issues but settled after a week of evidence following admission of fault.

#### Marika Komori v Tayside Health Board [2010] CSOH 30

Case involving an injury sustained following an arterial blood sample Sought recovery of all documentation held by the Health Board in relation to the complaint made by the claimant

#### Brenda Louise Rennie v Lothian Health Board [2010] CSOH 61

This was a cerebral palsy case which considered the issues of delay and mora in the context of litigation.

## Greenhorn v South Glasgow University Hospitals NHS Trust [2008] CSOH 128

The claimant suffered nerve damage following a colposuspension procedure. Considered the issue of res ipsa in the context of clinical negligence

### Hepburn v Royal Alexandra Hospital and Another [2008] CSOH 81

Argument in the Outer House relating to delay in progress of litigation in the context of a clinical negligence claim

## J.S. v Lothian Health Board 2009 SLT 689

This case related to a failure in testing for cystic fibrosis. The case considered the important issue of the non delegable duties of Health Boards in terms of matters such as test results

### Rosemary Lenton v Ayrshire and Arran Health Board

Involving a knee replacement surgery without prophylactic antibiotics which resulted in gross destruction of the

knee with the result the claimant was wheelchair bound. Issues of orthopaedic negligence.

#### **Learmont v Dr Vernon**

Action against a GP following the death of a young woman with meningitis. Difficult issues related to causation and whether the death could have been avoided had she been referred to hospital at an earlier date

#### Zoe Campbell v Highland Health Board

Cerebral palsy case involving a breach delivery which proceeded to proof on all issues and then settled after evidence.

### **Eric Robertson v Forth Valley Health Board (Extra Division)**

Full evidential appeal before the Extra Division which settled after a number of weeks of hearing

#### Eric Robertson v Forth Valley Health Board 13/4/2005

(Temporary Judge Coutts) Clinical negligence case related to the failure to diagnose an aneurysm resulting in the patient suffering a stroke when he underwent surgery

#### Christopher Muir and Others v Grampian Health Board Lord Abernethy CSOH 17/3/2000

Fatal case following the death of a woman as a result of a heart attack. Issues of whether she should have been recognised as at risk of cardiac problems and whether she should have been discharged from hospital. One of the first cases to raise the issue of whether pursuer's should lead in evidence the doctor's being blamed.

### Maureen Trodden v Greater Glasgow Health Board

Case involving breast reduction surgery which left the pursuer with grossly reduced breasts. Issues of negligence in cosmentic surgery.

#### Richard Adamson v Lanarkshire Health Board

Medical Negligence jury trial. A young boy had a selling in his testicle and this was removed without testing on the assumption that the swelling was cancerous. Subsequently confirmed to be a blood clot. One of the few medical negligence cases that has proceeded to jury trial.

### Desmond McCafferty v Greater Glasgow Health Board

Limitation argument in relation to raising of proceedings in a Clinical negligence case

## Inquiries and Inquests (with a P.I. or medical content)

#### Vale of Leven Hospital Inquiry

This was set up by Scottish Government and Chaired by Lord McLean to investigate deaths at the Vale of Leven Hospital as a result of C difficile infection. She was appointed as the Junior Counsel to the Inquiry which lasted over 3 years and published in November 2014. The Inquiry had a wide ranging remit to review issues of nursing practice, medical practice, tissue viability, utrition in the elderly, infection control and clinical governance.

#### Inquiry related to the Glasgow Airport Rail link

Junior Counsel instructed in the planning Inquiry related to the Glasgow Airport Rail link. This was a proposed rail link between Glasgow Central Station and Glasgow Airport

#### Inquiry into the death of Debra Law

(represented the family) Related to the death of a young woman following the administration of an anaesthetic by a junior doctor and required a detailed knowledge of anaesthetics and the technique for rapid sequence induction

#### Inquiry into the death of Linda Gibson

(represented the family) Related to the death of a young woman following coning of her brain. This was a

lengthy Inquiry with complex medical evidence in relation to epilepsy, neurology, infection and the mechanism of brain swelling together with the interaction of drugs on this process

#### Inquiry into the death of Stephen Miller

(represented the family) Related to the death of a young boy following a massive pulmonary thromboembolism and involved complex issues in relation to haematology, the mechanism of clotting and the interaction of drugs on this process

## Inquiry into the death of Simon Dolan

(represented the family. Related to the death of a child with Cornelia de Lang Syndrome where there was malplacement of a feeding tube. Paediatric issues and nursing negligence

## Inquiry into the death of George Fairlie

(represented the family) Related to the death of an elderly man in a Care Home. This lasted nearly 9 weeks in Paisley Sheriff Court. The case had a number of complex medical issues relating to dementia, pressure damage, vascular issues and diabetes and medical care of the elderly. In addition issues in relation to Social Work Care and the workings of the Care Commission

### Inquiry into the death of Lorraine McGalliard

(represented the family). Related to the death of a young girl following an undiagnosed torted ovarian cyst. Gynaecological and surgical negligence

## **Directory Comments**

Chambers & Partners 2024 (Clin Neg) Band 1

"Excellent on her feet and very well prepared."

"She is pragmatic, great at managing expectations and very practical."

She is ranked in Chambers UK (Band 1) and The Legal 500 for Clinical Negligence . Chambers UK have said:

"She's got an encyclopedic knowledge and she handles complex cases with ease." (Chambers 2022)

Strong silk who brings her skills to bear in the full array of clinical negligence and personal injury cases. She is adept at navigating complex causation and quantum issues and is especially knowledgeable about claims relating to cerebral palsy, brain injuries and fatal incidents. Instructing solicitors frequently praise her for her medical knowledge. (Chambers 2021)

"Excellent on her feet and very well prepared." (Chambers 2021)

<sup>&</sup>quot;She is pragmatic, great at managing expectations and very practical." (Chambers 2021)

<sup>&</sup>quot;She has an apparently inexhaustible energy to prepare and argue some of the most ground-breaking cases", "A highly regarded and experienced advocate recognised for her personal injury and medical negligence

experience" (Chambers 2020)

"She is absolutely superb, and she fights a client's corner pretty fiercely... hugely knowledgeable and really applies herself".

In the 2016 edition she is described as "Deeply knowledgeable in medical negligence matters. I don't think you could find a more committed advocate to medical negligence cases." "She's a real leader in this field; the most specialised claimant clinical negligence advocate in Scotland".

In 2017 Chambers say of her "Her knowledge of the legal and medical aspects of the cases she handles is phenomenal" "Absolutely superb at medical negligence cases. She goes the extra mile to understand the expert knowledge."

### **Lectures, Seminars and Publications**

#### **Publications**

Lauren has written extensively in the area of personal injury and medical negligence. She is the author of 'A Guide to Consent in Clinical Negligence Post-Montgomery' published by Law Brief Publishing (2018), contributing editor of Green's Reparation Bulletin on Medical Law and wrote the chapter on Medical Law and Human Rights in Greens Human Rights Loosleaf.

#### **Published Book**

Sutherland QC: 'A Guide to Consent in Clinical Negligence Post-Montgomery', Law Brief Publishing, 2018.

#### **Published Articles**

Since coming to the Bar she has published a number of Articles in the area of Personal Injury and Medical Negligence. She is also a Contributing Editor to the Reparation Bulletin and produces regular reviews and comment on cases decided in the area of medical negligence.

- Who carries responsibility -moral blameworthiness and causative potency Carolyn Almond-Roots v El Jamel and NHS TaysideReparation Bulleton 2022
- Meadows v Khan The scope of duty in clinical negligence Reparation Bulletin 2021
- The right of patients to make autonomous choices: Montgomery v Lanarkshire Hearth Board: a landmark decision on information disclosure to patients in the UK. Int Urogynecol J (2021)
- Does the Bolam Test apply to disputes of fact between experts? Reparation Bulletin February 2020, issue 152
- The quality of evidence of normal practice in information disclosure cases post Montgomery. Reparation Bulletin 2019, 150, 2-4 Comments on the Supreme Court of Australian Capital territory decision in *Kempster v Healthscope Operations Pty Ltd* on whether a nurse who claimed to have used standard or invariable practice had failed to adopt the standard of care to be expected of a nurse in that position and the evidential weight to be attached to such assertions.
- **Is coincidental causation sufficient to found liability?** Reparation Bulletin 2019, 147, 4-6 Comments on the case of *Khan v MNX* (CA) on whether a general practitioner who failed to establish that a patient was a carrier of the haemophilia gene was liable in law for the child's autism as well as haemophilia where the mother would not have become pregnant if she knew she was a carrier. Discussed the 'scope of liability' test and its application in the UK.
- **Montgomery: Myths, Misconceptions and Misunderstandings** Journal of Personal Injury Law Issue 3 2019 Comments on the arguments made in *Montgomery v Lanarkshire Health Board* in the Supreme Court and the implications of the decision with an analysis of some of the decisions since the case was decided.
- The Bolam and Hunter v Hanley tests following Montgomery Reparation Bulletin 2018, 144, 5-8 Comments on AH v Greater Glasgow Health Board on whether doctors failed in their duty of care by failing to advise on the risks inherent in the use of vaginal mesh products. Considers the impact of Bolam v Friern Hospital Management Committee and Hunter v Hanleyand whether the cases still apply to consent cases.

- LT v Lothian NHS Health Board Reparation Bulletin 2018, 143 5-8 Brain damage during birth case where the allegation was the Registrar negligently misinterpreted the CTG trace and failed to expedite the birth. Considers the issue of conflicting expert evidence, impartiality, disclosure and consent.
- **Causation in wrongful birth cases** Reparation Bulletin 2018, 140, 6-8 Considers the case of *Meadows v Khan* (QBD) on whether there was liability for losses sustained by a woman who had a child with both autism and haemophilia when the woman had only sought to avoid having a child with haemophilia.
- AW as legal representative of LW v Greater Glasgow Health Board. Reparation Bulletin 2017, 138, 6-8 Comments on AW v Greater Glasgow Health Board in which a reclaiming motion was refused in relation to the dismissal of an action against 2 midwives in relation to damage suffered by a child pre -delivery.
- Malone v Greater Glasgow and Clyde Health Board Reparation Bulletin 2017, 135, 5-7 Comment on the Outer House decision in Malone which was an action for damages against a Health Board in respect of the clinical negligence on the part of a Haematologist which resulted on the claimant suffering a stroke.
- The introduction of consent cases to existing cases following Montgomery Reparation Bulletin 2016, 133, 3-6 Considers with reference to the case law the position on introducing a consent case late in a medical negligence proceedings in the aftermath of *Montgomery v Lanarkshire Health Board*
- **KR v Lanarkshire Health Board** Reparation Bulletin 2016, 132, 6-8 Examines the Outer House ruling in *KR v Lanarkshire Health Board* where the issue was whether the Registrar managing the labour was under a duty to make the patient aware of the material risks involved in her labour in accordance with the principles found in *Montgomery v Lanarkshire Health Board* and offer a caesarean section or assisted delivery.
- **Medical Negligence Update** Reparation Bulletin 2016, 131, 6-8 Comments on the Privy Council ruling in *Williams v Bermuda Hospitals Board* the Queen's bench ruling in *Tasmin v Barts Health NHS Trust* and the QBD ruling in *SXX v Liverpool Women's NHS Foundation Trust*
- Consent to medical treatment and provision of inaccurate information in risks Reparation Bulletin 2015, 127,5-7 Examines the Queen's Bench Division ruling in *Connolly v Croydon Health Services NHS Trust* on whether a hospital failed to obtain informed consent to a procedure and whether its continuing treatment of the patient after she had withdrawn her consent invalidated the lawfulness of treatment. Considers whether the right to withdraw consent can be overruled in life threatening situations.
- **Consent post Montgomery Reparation Bulletin** 2015, 126, 6-8 Comments on the Queen's Bench Division ruling in *FM v Ipswich Hospital NHS Trust* on whether to award damages for clinical negligence which resulted in brachial plexus injury during childbirth on the ground that the hospital failed to discuss the risks of possible shoulder dystocia with the mother prior to labour.
- Causation issues midwifery negligence Reparation Bulletin 2015, 125, 6-8 Assesses the Outer House ruling in *W v Greater Glasgow Health Board* on whether the failure by midwives to refer to hospital a woman who was 20 weeks' pregnant and displaying symptoms of pre-eclampsia had: (1) caused a delay in the birth of her son; and (2) if so, that delay had caused her son to develop a brain injury.
- Causation issues in consent cases: where are we now following the decision of the Supreme Court in Montgomery? Reparation Bulletin 2015, 124, 3-6 Comments on the Supreme Court judgment in *Montgomery v Lanarkshire Health Board* on consent and causation in a clinical negligence claim, if a baby suffered shoulder dystocia during birth and the mother asserted that she would have asked for a caesarean section if she had been advised about the risk. Considers whether the test of causation should be subjective, or objective based on what a reasonable patient would have done.
- The law finally reflects good professional practice. Reparation Bulletin 2015, 123, 4-8 Reports on the landmark Supreme Court judgment in *Montgomery v Lanarkshire Health Board* on whether an obstetrician should have informed a pregnant woman of the risk of shoulder dystocia occurring in a vaginal delivery in her case and the further risk of the baby being born with brain damage. Highlights the significance of the case in developing the law on consent to medical treatment, with particular reference to the legal status of General Medical Council guidance.
- Causation in Consent Cases Where are we now? B. 2015, 124, 3-6
- C (By his Father and Litigation Friend 'F') v North Cumbrian University Hospitals NHS Trust B 2014, 121(Dec), 6-8 An analysis of the application of the Bolitho principles to expert evidence (November 2014)
- M. as legal representative of RM v Highland Health Board Rep. B, 2014, 117 (Apr) 7-8 Bolitho in the CP
- Alexander Glancy v The Southern General Hospital NHS Trust Consent and emergency surgery B. 2013, 113 (Aug), 24

- Robin Donald and Others v Ayrshire & Arran Health Board and Others B 2013, 112 (Jun) 7-8 GP negligence and failure to diagnose DVT (May 2013)
- Helen McGlone v Greater Glasgow Health Board (January 2013) B. 2017, 135, 5-7 Failure to diagnose cancer and causation issues
- Hannigan v Lanarkshire Acute Hospitals NHS Trust B 2012, 109 (Dec) 6-7 Analysis of competing expert evidence and the application of Bolitho in a total hysterectomy
- Marjory Campbell v Borders Health Board B 2011, 100 (Jun), 7-8 analysis of the concept of direct responsibility of health boards
- Nicolas Taaffe v East of England Ambulance Service NHS Trust (May 2012) Medical Negligence B. 2012, 106(May), 7-8
- Recovery of Damages for a 'seriously handicapped' child The Case of Rand
- The blessing of the unplanned pregnancy MacFarlane in the House of Lords (2000) B. 2000, 33(May), 5-7
- Multipliers Multiplied Wells and McNulty B. 1999, 25(Jan), 4-7
- Failed Sterilisation (1995) B. 1995, 3(May), 4-7
- The Brain Damaged Baby B. 1995, 2(Mar), 3-6
- "No Fishing" Recovery of Medical Records pre litigation" B. 1995, 1(Feb), 3-5
- A Single Standard of Care B. 1995, 6(Nov), 11-12
- A relationship of Mutual Trust Is Pregnancy a Personal Injury? B. 1995, 5(Sep), 4-6

#### **Presented Lectures**

Lauren has been asked to lecture on a number of different topics in the field of personal injury and medical negligence since going to the Bar. She has given lectures for a number of different organisations including the Scottish Young Lawyers, The Legal Services Agency, The Law Society and Glasgow Graduate School. Lectures Presented

- Chair at The Anatomy of a Cerebral Palsy Conference, Inspire MediLaw (Edinburgh) 18th September 2023
- Presentation for McCollum Consultants The dos and don'ts of expert witness work. 13th September 2023 Chair at the Inspire MediLaw Annual Medico-legal Conference (Scotland) 14<sup>th</sup> September 2023

Chairing the PEOPIL Birth Injury and Medical Negligence Seminar in Florence, September 2023. https://www.peopil.com/conferences/aaj-birth-injury-and-medical-negligence-seminar-2023/

- Presentation for MASIC Foundation Montgomery- where are we now? 21 April 2022
- Presentation on 'Patient consent and the Montgomery decision', Faculty of Dental Surgery, Kings College, London, 17 March 2022.
- British Association of Brain Injury & Complex Case Management 'Accommodation: so much more than a roof over your head' Chair and Speaker, Birmingham, 16 March 2022
- Royal Faculty of Procurators in Glasgow: Medical Negligence Half Day Conference 2021 Chair and Speaker, 29 October 2021
- Chair of conference on Medico Legal issues in Cardiology and Respiratory Medicine, Inspire Medilaw, Edinburgh, October 2021.
- Presentation on 'Anaesthetic Consent', Oxford Anaesthetic Conference, 28 September 2021
- Invited lecture for National Education Scotland on patient consent and information disclosure to patients, 27 May 2021 (virtual conference)

- Invited presentation at IGB Congress, Holland (online) on the ethical principles that underline patient consent and the development of the law in the UK: 'Montgomery; from Hippocrates to paternalism to patience choice', 30 March 2021
- Rationing Healthcare in a Global Pandemic a presentation on the legal position in Scotland. Commonwealth Lawyers Association, 16th March 2021.
- Teaching on expert witness course with Inspire Medilaw, 14 and 15 December 2020 and 7-8 June 2021
- Invited lecture at Royal Faculty of Procurators, Glasgow on "What you want from expert witnesses", 8 December 2020
- PEOPIL's Webinar 'Plastic Surgery Tourism' (Chair), September 2020
- Inspire MediLaw Annual Expert Witness Conference (Chair), September 2020
- Inspire MediLaw Webinar 'Consent post-Montgomery in brain injury claims', September 2020
- Inspire MediLaw Webinar "Conversations on Consent", June 2020.
- PEOPIL's 5th Webinar on Zoom discussing issue of Nursing Homes Claims, June 2020.
- Training Day: Appearing in court, Jacqueline Webb OT's, Oxford, January 2020.
- Presentations at Medical Expert Witness Training for Medical Professionals on: 1. Consent; 2. Courts, Cross and Examination in Chief, Inspire Medilaw, Glasgow, December 2019,
- Presentation on Consent: The journey from Hippocrates to paternalism to patient choice, Scottish Spine Surgeons, November 2019 Royal College of Surgeons, Edinburgh
- Chair of conference on Medico Legal issues in Emergency Medicine, Inspire Medilaw, Edinburgh October 2019
- Presentation: Medical Negligence Update 2019, Royal Faculty of Procurators Annual Conference October 2019
- Inspire MediLaw (Medico-Legal issues in General Surgery) London (11th September 2019) (https://www.inspiremedilaw.co.uk/event/clinical-negligence-conference-september-2019/)Presenting on consent and causation issues in consent cases.
- Presentation: The Legal Duty of Candour in the UK and whether this is consistent with the approach of the UK Supreme Court in *Montgomery*on the individual patient's right to information disclosure, at the XXXVIth International Congress on Law and Mental Health Conference, Rome (July 2019)
- Inspire MediLaw Expert Witness Training for Medical Professionals (June 2019) Teaching on the law, what is an expert witness and appearing in court.
- Chair and speaker (on consent) at Inspire MediLaw Annual Expert Witness Conference (May 2019) Royal College of Physicians in Edinburgh
- Presentation: National Conference for the Association of Breast Surgeons in Glasgow (May 2019)
- Chair at Inspire MediLaw Clinical Negligence Conference (April 2019)
- Part of a panel on consent at the Winter Scientific Meeting for the Royal College of Anaesthetists in London (January 2019
- Teaching Medical expert witnesses with Inspire Medilaw, Royal College of Physicians and Surgeons Glasgow (December 2018)
- Presentation: Difficult issues in Personal Injury Litigation. The Royal Faculty of Procurators in Glasgow Personal Injury Conference (October 2018)
- Chairing medico-legal conference for Inspire Medilaw (October 2018)
- Invited speaker British Society of Paediatric Dentistry Caird Hall, Dundee on consent (September 2018)
- Invited speaker in Barcelona at the Pan-European Organisation of Personal Injury Lawyers at an international session on consent (June 2018)
- Presenting on Consent and Risk at Manchester International Living Donor Meeting, Innovations and Controversies (April 2018)
- Chairing Negligence in Gynaecology & Obstetrics Conference with Inspire MediLaw, Edinburgh (April 2018)
- Medical Negligence update at the annual Personal Injury Conference. Royal Faculty of Procurators in Glasgow (March 2018)
- Presentation: Consent and Montgomery 3 years on. Where are we now? Royal College of Physicians and Surgeons, Glasgow (March 2018)
- Teaching medical experts with Inspire Medilaw on preparing medical reports and giving evidence in court (January 2018)
- Lecture on Quantum issues in orthopaedic, spinal and amputation cases for Orthopaedic Conference with Inspire MediLaw (30 October 2017)

- Teaching medical experts on preparing medical reports and giving evidence in court, Inspire Medilaw Oxford (October 2017)
- Annual Personal Injury Conference Royal Faculty of Procurators Presenting on Clinical Negligence and the new rules (October 2015)
- Presentation: Montgomery A new Approach, Royal Faculty of Procurators (2015)
- Presentation: Understanding the decision of the Supreme Court in Montgomery Presentation to DAC Beachcroft English offices (July 2015)
- Presentation: Causation in Consent Cases Where are we now? Ampersand Clinical Negligence Conference (June 2015)
- Presentation: The law on Consent to Medical Treatment University of Glasgow Medico-legal Society (2014)
- Presentation: Consent and *NM v Lanarkshire Health Board* Medico Legal Management Clinical Negligence Conference (2014)
- Co-Chair and organiser of the Ampersand Clinical Negligence Conference (June 2014)
- Periodical Payment Orders and Medical Negligence Update Central Law Training Personal Injury Conference 2014, Glasgow
- Presentation: Medical Negligence Update Central Law Training Personal Injury Conference 2013, Edinburgh
- Patient Advisors Day Talk on negligence to Patient Advisors (2012)
- Civil Procedure Advocates' Clerks training talk
- Multipliers in Personal Injury Actions (2000,1999,1998) Legal Services Agency Day Conference on Update on Personal Injury Law
- Presentation: Psychological Injury and the Law (2007)
- Medico-legal report writing and Giving Evidence in Court Medical Education for Doctors (2007)
- Presentation: Medical Negligence Day Conference for Morton Fraser (2006)
- Presentation: Cerebral Palsy and Brain Injury Claims Legal Services Agency (2005)
- Quantification of claims for Psychological Injury Legal Services Agency (2004 and 2005)
- Presentation: Medical Negligence Quantification of Claims and Update The Law Society (2004)
- The Dentist and the Law Royal Odonto Chirurgical Society of Scotland (3 separate lectures in Glasgow, Edinburgh and Dundee)
- Cross examination of witnesses with Charles Hennessy Medical Negligence Scottish Young Lawyers
- Human Rights and Medical Law Central Law Training (2002)
- Accidents to Children Central Law Training and Glasgow Graduate School of Law (2002)
- Negotiation in Personal Injury Actions Scottish Young Lawyers Conference (with Professor C Hennessy, Solicitor Advocate)
- Limitation in Personal Injury actions- Legal Services Agency (with Hugh Olson, Advocate) October 2001
- Expert witnesses SLYA October 2001 Day Conference
- Preparing a Medical Negligence Action for Court Scottish Young Lawyers Conference
- Children in Reparation Actions Central Law Training Fifth Annual Reparation Conference November 2001
- Conduct of a Civil Proof- Scottish Young Lawyers Annual Conference (with Professor C Hennessy, Solicitor Advocate) January 2000
- Medical Law and Human Rights Scottish Young Lawyers Conference October 2000
- Preparation of a Reparation Action Scottish Young Lawyers Annual Conference January 1999
- Issues of Evidence in Personal Injury Actions Glasgow Bar Association January 1998
- Preparation of a Medical Negligence Action Glasgow Bar Association
- Fatal Accident Inquiries SSC February 1996
- Preparing and Conducting a Medical Negligence Action Greens in conjunction with Strathclyde University October 1995
- Psychological Injury and Stress at Work Claims Legal Services Agency Conference
- Preparing and Conducting a Medical Negligence Action Greens in conjunction with Strathclyde University October 1995
- Psychological Injury and Stress at Work Claims Legal Services Agency Conference
- Training Course for GP experts on giving evidence in court with John Sturrock Q.C.