

Cerebral Palsy

A guide to individuals and their families seeking compensation for Cerebral Palsy

About Pannone

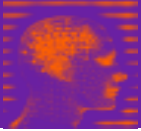
Pannone is a leading law firm, with a national reputation in the field of clinical negligence – as recognised by independent publications [The Legal 500](#) and [The Chambers Guide to the Legal Profession](#).

Our specialist teams handle all aspects of clinical negligence work – from dentistry to cosmetic surgery to neurological and birth injuries, and much more besides.

Our experienced solicitors offer a holistic approach by working together with clients and their families to address their immediate needs, as well as guiding them through the complex legal maze that surrounds Cerebral Palsy cases.



What is Cerebral Palsy?

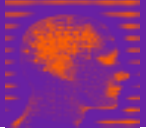


This condition is a group of non-progressive disorders which can be characterised by impairment of movement or loss of other nerve functions causing disability. These disorders can be caused by injury to the brain during fetal development but may be due to lack of oxygen to the brain as a result of negligent delays occurring during labour and delivery or other errors in the new born period.

There may be partial or full loss of movement, sensory abnormalities, and defects of hearing and vision. Intellectual function may be preserved in its entirety or be badly impaired.

Symptoms of Cerebral Palsy are usually evident before the age of three years and affect two out of every 1,000 children born. In severe cases, symptoms may appear in the first three months after birth. As well as causing disorders of movement, those affected by Cerebral Palsy can suffer from learning difficulties, visual impairment, hearing/speech difficulties, behaviour problems and epilepsy.

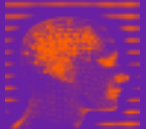
What causes Cerebral Palsy?



Neurological injury may be sustained during the pregnancy without there being any negligence. However, such injury can also result when the fetal brain is deprived of oxygen due to the delays in recognising problems during the labour and intervening to bring about an earlier delivery. There may be a failure to recognise and act upon the signs of fetal distress (whatever the cause) and therefore a delay in proceeding to delivery by forceps, ventouse or caesarean section. There may be problems with the inadequate or inappropriate use of forceps or ventouse.

Even before the labour there may have been a failure to deal with maternal high blood pressure or toxæmia; a failure to recognise the risk of dangerous infections or inadequate planning for the delivery of a baby of large birth weight. Likewise in the newborn period there may be substandard care on the part of the paediatric or midwifery staff during the process of resuscitation or the recognition of early illness – for example infection, fitting or neonatal hypoglycaemia (low blood sugar).

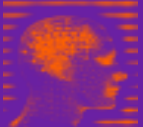
Types of Cerebral Palsy



There are four main types of Cerebral Palsy, which may also be present in a mixed form:

- Spastic CP is the most common form, affecting about four-fifths of sufferers. This is caused as a result of the muscles remaining in a constant state of increased involuntary reflex and leads to stiff and jerky movements. A person may have difficulty moving from one position to another or holding or letting go of objects
- Athetoid CP affects less than one-fifth of patients. It causes un-coordinated, involuntary, purposeless movements, especially in the face, arms, and trunk. These involuntary movements often interfere with speaking, feeding, grasping, reaching and other skills that require co-ordinated movement
- Ataxic CP affects less than one in ten patients and is characterised by poor muscle tone and altered sense of balance and depth perception, leading to slow, un-coordinated, unsteady and shaky movement
- Mixed CP is usually a combination of spasticity and athetoid movements with tight muscle tone and involuntary reflex

Seeking legal advice



If you have reason to think that you or your child's Cerebral Palsy was caused by poor treatment it may be possible to bring a claim for compensation. Legal advice should be sought at an early stage even if you are unsure as to whether you are entitled to claim compensation. This will enable us to collect and obtain information whilst memories are still fresh. Even if there is no claim, an investigation will at least give you an explanation of events and

reassurance that you have sought independent legal advice and explored the possibility of a legal claim.

The legal process can be long and complex. For this reason, it is important to choose a solicitor, such as the specialist Cerebral Palsy team at Pannone, who has vast experience in this particular area of law. It would be our aim, as your solicitor, to simplify the process so that you can understand all the steps taken at the various stages.

Progressing the claim



Pannone offers a free initial consultation to all potential clients. In this initial interview we seek to advise you whether or not your claim is worth pursuing. If it is not possible to determine this at the initial interview then we will take steps to obtain information so that we may assess your claim with a view to giving you advice about the viability of bringing a claim.

If the claim progresses, we will take a detailed statement recording your recollections of the pregnancy and birth. We will also need to know about your baby's condition to establish a clear picture of your particular situation.

The mother's medical records and those of the child are first reviewed by our in-house midwifery team in preparation for submission to independent experts in the field. These experts will

assess firstly whether there was any substandard treatment during the labour, birth or immediately afterwards, and secondly whether or not this caused the injury.

Public funding



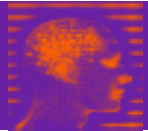
Most children will qualify for public funding, as will any adult in receipt of Income Support or Job Seeker's Allowance and families or individuals on a low income. However, you will need to confirm that you did not have the benefit of Legal Expense Insurance (which is generally attached to your house contents insurance policy) at the time of the incident. You may also now be asked to complete the complaints procedure before the Legal Services Commission (LSC) will give consideration to any application. In addition to financial eligibility, the LSC must be satisfied that there is good reason to investigate the possibility of a claim.

It is important to note that, when assessing the financial eligibility for public funding, only the child's means and resources (and not their parents') are taken into account. Therefore, unless your child has any savings, items of value or investments totalling £3,000 or more – or is due to receive money from a trust fund or Will – public funding should be available.

In certain circumstances financial contributions towards the costs of funding your case may be required for the duration of the investigation. If funding is granted and the case concludes successfully, the majority of your or your child's legal costs are likely to

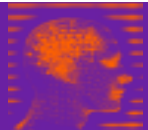
be recovered from the party at fault, in addition to any compensation awarded. If the claim fails and no compensation is recovered, then the legal costs incurred will be met by the LSC, and any contribution paid will be retained by them.

Compensation



Compensation is intended to provide financial security for the child's future. It will help pay for care, additional medical treatment and many other items such as necessary adaptations to accommodation, etc. Whilst the amount of damages awarded will depend upon the level of disability that the child has, compensation awards for Cerebral Palsy are generally very high.

Time limits

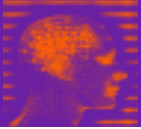


There are strict time limits for pursuing claims for compensation. Normally, a claim for damages must be brought within three years of the date of any accident.

However, in cases brought on behalf of children, the rules are different; the three year period in these cases runs from the child's 18th birthday. In addition, the rules are also different for adults over 21 years of age who suffer severe mental impairment. In such cases it may be possible to make a claim at any time.

These rules are complex and the issue needs expert legal analysis, which we will be happy to provide.

Investment of damages

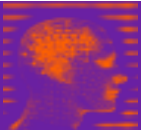


Any award of damages, whether ordered or approved by the court, will be paid into the court and invested on your child's behalf. As a general rule, a child of full mental capacity will not be allowed control of any damages until the age of 18, but the money is there to meet their needs from the outset (with any such decisions being made by you/the child's parents and vetted by the court).

A trust fund can often be established with the monies to give greater flexibility and we can provide you with appropriate specialist advice on how this can be achieved.

The Public Trust Office may need to be involved with regard to any compensation monies for a child/adult who does not have mental capacity. We can provide you with appropriate specialist advice explaining what this involves.

Special educational needs



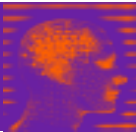
If your child's injury interferes with his or her ability to learn at school you should ask the Local Education Authority to consider

whether additional support, such as specialist teaching, therapy or one-to-one assistance, is needed. The process of assessment is complex and parents often need guidance. Pre-school support is also available for younger children in certain circumstances. Often the Local Education Authority will readily agree to assess any special educational needs which your child may have. If they refuse to do so, or if, having assessed these needs, they offer provision which you regard as insufficient, then you have a right to appeal at a tribunal. We can explain your rights in this area and help ensure that your child's needs are properly assessed and provided for. The Community Care team can deal with these matters, so please contact us for further details.

Conclusion

It is impossible to set out in any great detail the law relating to Cerebral Palsy in a short document such as this. It is a highly complex area of the law, but we hope we have given you some initial information. If you have any further concerns or questions then please do not hesitate to contact us via law@pannone.co.uk or on 0161 909 3000.

Useful contacts



Patient Advice and Liaison Services (PALS), often part of a local Citizen's Advice Bureau and available in all NHS trusts

NHS Direct Telephone: 0845 46 47

Website: www.nhs.uk

SCOPE (formerly the Spastics Society)

6 Market Road

London N7 9PW

Telephone: 0800 800 3333

Website: www.scope.org.uk

The Law Society

The Law Society's Hall

113 Chancery Lane

London WC2A 1PL

Telephone: 020 7242 1222

Website: www.lawsociety.org.uk

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