

# Head & Brain Injury Claims



At Blake Morgan, our team of expert head and brain injury specialists understand the devastating impact a personal injury of this kind can have on the quality of life for you and your family. Our expert lawyers are committed to working with you to ensure that your best interests are at the forefront of any steps taken on your behalf.

## Compensation Claim

If you have been injured through the fault of someone else, our specialist injury lawyers have the experience and expertise to secure the best possible compensation award for you and to ensure you have access to the medical treatment, rehabilitation, care and home modifications that will support you both now and in the future. We are experienced in handling complex head and brain injury claims that have resulted from a range of circumstances including workplace accidents, road traffic accidents, falls and medical negligence, both at home and abroad.

Whatever your situation we offer sympathetic and clear legal advice when you need it the most. Long term care costs after a head or brain injury can be substantial and we want to ensure you are looked after whatever eventualities lie ahead. Our team includes dual qualified medical professionals including a doctor, midwife and nurse, and we all understand the long term effects of your injuries and will help fight to get you the highest level

of compensation available. We can also help secure interim payments to help with the costs of rehabilitation.

## Court of Protection and Personal Injury Trusts

Brain injuries can have a lasting impact on your life and in severe cases it may mean you or your loved on no longer has the mental capacity to make important decisions regarding finances and welfare. Our Court of Protection Team can help to ensure that the injured individual's best interests are at the heart of any decisions made during this difficult time. We work closely with families and carers if there are concerns about a person's ability to manage their affairs or disputes about what medical care and financial arrangements are in a person's best interests. The Court of Protection Team has a diversity of experience and skills to ensure that matters are dealt with quickly and professionally.

At Blake Morgan our catastrophic injury lawyers work seamlessly with the Court of Protection Team to ensure that you

and your family are fully supported at all times. We have experienced partners who can act as professional attorneys, deputies or trustees where the Court or the family consider it is in the best interest of the person who lacks capacity.

Some individuals who receive compensation may still be vulnerable even if they have capacity and may wish to place assets into a Personal Injury Trust or they may be a child. It may be necessary to look at taxation and benefit issues and a Personal Injury Trust could help with that. We can look at your individual circumstances and advise on the best solution to support vulnerable people and their families when they need it the most.

**Our personal injury lawyers work with independent medical experts and specialist barristers to prepare all the evidence needed to put forward the best claim possible.**

### **Making a claim**

Most of the head and brain injury compensation claims we pursue for clients are on a no win no fee basis, although we also work with insurers and have a legal aid franchise for catastrophic birth injury claims.

We also offer a free initial consultation where we'll give you advice on your claim and how much compensation you might expect. We have a number of offices including a London office, but if travel is a challenge we'll happily come to you.

Our personal injury lawyers work with independent medical experts and specialist barristers to prepare all the evidence needed to put forward the best claim possible. We promise to support and advise you at every stage and you will have a dedicated team working on your case, led by one of our most senior and experienced lawyers.

### **The Life of a Claim**

Whilst there is no "typical" head injury claim as every case and every individual is different, the scenarios below demonstrate the types of cases that our injury and court of protection teams work on together with clients and their families. The fictional scenarios below are representative of the type of work that we do on a regular basis.

## **Scenario 1 - Adam falls from a roof whilst at work and suffers a number of broken bones.**

**After falling from a roof at work, Adam has very little recollection of what happened but asks Blake Morgan if they can help him obtain some compensation. One of the specialist Personal Injury solicitors at Blake Morgan arranges for him to be seen by relevant medical experts and a likely traumatic brain injury is identified. Adam is then seen by a neuropsychiatrist who confirms that due to his brain injury, he is unable to weigh up information to enable him to reach reasoned decisions to conduct the litigation or to manage his financial affairs.**

A mental capacity specialist from the Court of Protection team meets with Adam and his wife and a professional Deputy is appointed to look after Adam's financial affairs, whilst his wife is appointed as the Litigation Friend to continue to

pursue the compensation case. After exchange of reports and correspondence, Adam's employer admits that there were insufficient safety measures in place to prevent injury and liability for Adam's injuries is admitted. His Personal Injury solicitor arranges for Adam's immediate needs to be assessed and on the basis of this report, is able to secure an interim payment to be applied for Adam's benefit. The Court of Protection Deputy, in conjunction with the family and Personal Injury solicitor, appoints a case manager to help arrange additional physiotherapy, neurophysiotherapy and OT assessments on a private basis at the family's convenience.

Adam can manage physically at home although his injuries mean that he is prone to falling. His head injury means that he

tends to forget things, has little concept of consequences and tends to act impulsively. Following interview, a buddy is appointed to support and safeguard Adam when he is at home and out and about so that his wife can return to work, relieving some of the financial and emotional strain that the family are facing.

In due course and with input from a number of experts, Adam's solicitor is able to properly calculate the full value of the claim and a settlement is reached. A case of this nature would be expected to settle for several million pounds.

Although the personal injury claim has been concluded, the Court of Protection team remain closely involved with the family on an ongoing basis. Adam's Deputy is able to purchase a more suitable property that is all on one level, has space for Adam to have quiet time on his own and is kitted out with technological adaptations that increase his levels of independence. Independent financial advice is sought to ensure that the compensation money is securely invested to be able to provide the care and assistance that Adam will need throughout his lifespan. Adam receives assistance from a vocational therapist, paid for through his claim, and is eventually able to engage in some regular part time work as a gardener with his local authority.



This is based on the current discount rate of -0.75%. This is currently under review and is expected to be increased from August 2019. If the discount rate is increased, the settlement value of such claims will likely decrease.



## Scenario 2 - Beth is a child who was diagnosed with severe cerebral palsy shortly after her birth.

Her mother had a long and difficult delivery. She instructs one of the specialist Clinical Negligence solicitors at Blake Morgan to investigate the circumstances surrounding Beth's birth. With the benefit of a qualified midwife on the team, having obtained the records for both Beth and her mother, Blake Morgan identify that there were indications during the labour that should have alerted the clinicians that Beth was in difficulty and should potentially have proceeded to an emergency caesarean section.

Appropriate experts are instructed who confirm that with appropriate care, Beth should have been delivered over 20 minutes earlier and that had this been the case, on the balance of probabilities, she would not have been starved of oxygen and would have been born unharmed.

The hospital NHS Trust disputes liability and produces their own expert evidence supporting their position. Ultimately when Beth is 6 years of age, at a formal settlement meeting, the Trust agrees to pay 85% of the full value of the claim. Beth's team of clinical negligence lawyers can then begin to collate the numerous reports required to quantify her claim. In the meantime an interim payment is secured to set up a comprehensive care regime to relieve some of the constant pressure that the family have been under since Beth's birth. The Court of Protection team become involved and a professional Deputy is appointed who works closely with the family to ensure that Beth's needs will be met in the longer term. Blake Morgan arranges for bespoke Wills to be prepared to make sure that Beth's future is secure should there come a time when her parents are no longer able to care for her.

Beth has both physical and cognitive disabilities. She is wheelchair bound and has limited communication skills. She lives with both of her parents and in due course they would like her to attend a specialist private school in the local area, where there are many other students with similar disabilities to Beth. She will benefit from



long term regular neurophysiotherapy and hydrotherapy, as well as a range of different mobility and assistive technology aids to enable her to participate in as many family activities as possible. Beth will require 24 hour care for the rest of her life and experts are of the view that she will always be vulnerable to financial exploitation and will never have capacity to manage her own financial affairs.

Beth's claim is settled successfully. The settlement value for a claim such as this is likely to be in excess of £20M. A property is purchased and adapted which is all one level and has ample space for all of Beth's specialist equipment and separate accommodation for an overnight carer and a therapy room. Blake Morgan facilitate professional input to ensure that Beth is in time able to attend the specialised school that her parents hoped for and her compensation monies

are able to fund transport to and from the school every day. The family have an adapted vehicle that can accommodate Beth's wheelchair, fitted with a hoist. The compensation monies also enable Beth to be able to travel on holiday abroad with her family, to appropriately adapted accommodation, something which the family had not been able to do previously. Part of the compensation monies are paid on an annual basis, which are guaranteed to be paid for the rest of Beth's lifetime, ensuring that her care needs can continue to be met. The Court of Protection Deputy and the Court of Protection team are on hand on an ongoing basis to provide help and advice to the family as this is required.

**"Blake Morgan gave me a voice when I felt no-one was listening to me."**

Personal Injury Client

“Thank you again for helping me through this and being so encouraging and supportive. I don’t know what I would have done without you.”

Personal Injury Client



### Blake Morgan Injury Group

We are recognised as leading specialists in representing people who have suffered traumatic head and brain injuries. We understand that your life will have changed in many ways, but are passionate about making sure we make the road ahead as easy for you as it can be in difficult circumstances.

We work closely with Headway - the brain injury association, and are accredited by the Association of Personal Injury Lawyers (APIL) and Action Against Medical Accidents (AvMA). Our teams are also highly ranked by the legal directories - Chambers and Legal 500.



### Meet the team



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Contact us to arrange a free consultation

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