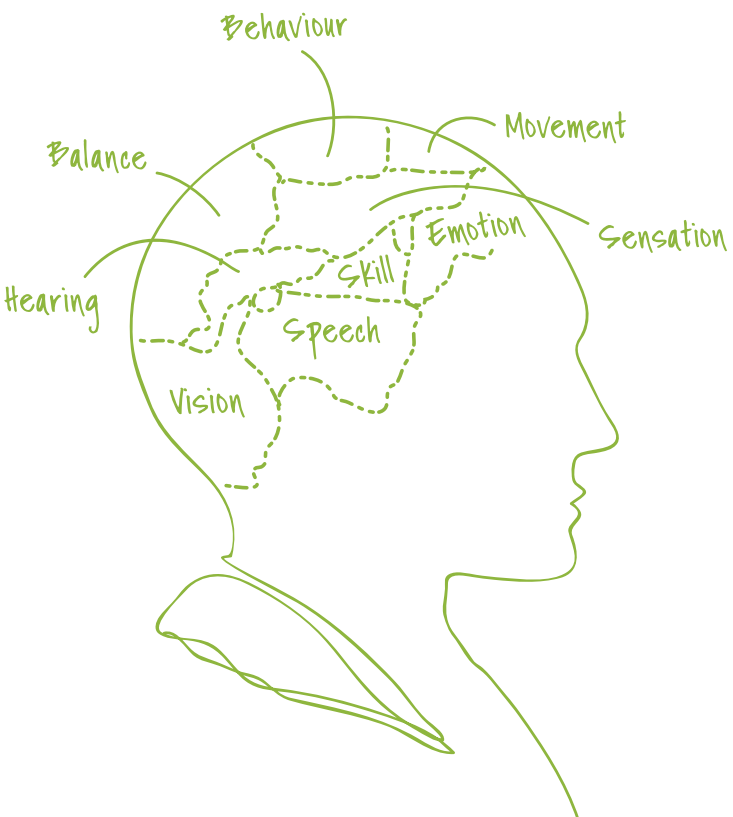


Our highly specialised team has wide experience in dealing with complex claims arising from **brain injury**. We work in a supportive, considered & clear way, dedicated to achieving the best possible outcome to secure the long-term welfare of our clients.



Supportive,
considered
& clear

A guide to how we can help

Approximately 1 million people a year attend hospital as a result of a head injury. 85% of adults who sustain severe head injuries will remain disabled one year after their accident. The effects are often permanent.

As a result of technological advances in medicine, more people are surviving from acquired brain injury (ABI) than ever before. Victims of ABI will suffer a number of symptoms as a result of their injuries, including psychological, cognitive and physical conditions, all of which will have a significant impact on the quality of their life. It is a harsh reality that often health, vocation and social departments lack the resources and understanding to meet the needs of these people and this further compounds their symptoms.

Many people are never hospitalised or are discharged from hospital without their head injury being diagnosed. Unfortunately therefore people with ABI are often denied their basic rights and needs. Such basic rights include being able to work with people who can understand and communicate with them, living in appropriately adapted accommodation and having timely access to the right medical treatment.

A head injury can instantly change a person's life. However with the right legal advice, an award of compensation and access to rehabilitation and treatment they can improve their quality of life.

How is ABI caused?

Brain tissue consists of a soft jelly like substance containing billions of interconnecting nerve cells (neurones) and nerve fibres.

These are supplied with oxygen and nutrients by a complex network of blood vessels. Cerebrospinal fluid, three layers of membrane and the skull protect the brain. Brain injury occurs when either the nerve cells or nerve pathways are broken, compressed or starved of a blood supply. This can happen as a result of mechanical force, insufficient blood and oxygen reaching the brain tissue, infection, chemical poisoning or by a tumour. The brain acts as a control centre for movement, sensation and emotional and behavioural function. Following a brain injury any one or more of these functions can be affected.

Is there a claim?

A claim may be made for compensation if it can be established that the accident was wholly or partly the fault of somebody else.

Brain injury cases attract significant sums of compensation because of the treatment, rehabilitation, education, support and care needed. So even if the person bringing the claim (claimant) is found to have contributed to the accident, any amount by which the compensation is reduced to reflect this finding will normally mean that they are nonetheless still left with a large award.

Cases involving clinical negligence are dealt with differently and our team of specialist lawyers will be able to advise you further about this at the initial interview.

The law states that anyone driving a vehicle on the highway should have insurance to cover injury or death to other people. Unfortunately, not everyone complies with this law but if the claimant is injured as a result of the negligence of a driver who is uninsured compensation can still be claimed. The Motor Insurers' Bureau will pay compensation where the driver was uninsured and, in some circumstances, even if the driver is unknown.

We will advise you fully as to whether there is a claim and your initial interview with us is free.

When should you see a lawyer?

The general rule is that a claimant has three years from the date of the accident to commence court proceedings against their opponent (the defendant).

There is an exception to this three year rule for children and people deemed incapable of managing their own affairs through lack of mental capacity (protected party). However it is always best to visit a lawyer as soon as possible after the accident. Not only is it the case that the sooner the claim is started the sooner there may be access to monies to fund treatment (if the defendant accepts fault for the accident) but also because it may be necessary for the lawyer to interview witnesses, to take photographs and instruct experts quickly whilst events are still fresh in everyone's mind.

How long will the claim take?

The length of the case will depend on:

- the injured person's age
- the severity of the injury
- the degree of recovery.

The lawyer will not settle the claim until he or she has confidence in the long-term prognosis. This will relate to not only the claimant's clinical recovery but also issues such as whether they will be able to secure and sustain employment and whether they can live independently, to name but a few of the long-term considerations. In most cases it is wise to wait and see how the claimant recovers over time rather than agreeing to an early settlement. In any event, before a settlement for a child or protected party can be agreed it has to be approved by the Court who will assess whether it is an adequate amount.

It is true that some brain injury cases can continue for several years for the reasons above. However, this does not always mean that the claimant will have to wait until the end of the case before they receive any money from the claim. In order to avoid financial difficulties and/or to pay for equipment, education, treatment or care it may be possible to obtain an interim payment.

How will the claim be paid for?

It is natural to be concerned about the cost of claiming compensation.

However, a decision against making a claim should not be made on the grounds of cost without seeking a free initial consultation. We will advise whether or not the claim is worth pursuing and about ways of funding the claim. Unfortunately, whilst public funding (legal aid) is available for claims involving clinical negligence, it is not now available for personal injury cases (except in limited circumstances). Personal injury claims can be funded in a number of ways. The most common are:

- privately funded by the claimant or a relative – legal fees would be payable whether the case is successful or not. If successful the defendant/insurers will be asked to pay these costs in addition to the compensation

- legal expenses insurance – the claimant may have access to the benefit of this type of insurance which pays for the case. It is normally attached to household, credit card, life policies or car insurance. We will ask you whether you have the benefit of such insurance and help you to make the appropriate enquiries
- conditional fee agreement ‘no win, no fee’ – this is an agreement whereby we agree not to charge any fees if the case is lost but if the case is won we will charge a success fee. The success fee is a percentage uplift payable in addition to our basic costs. This is not a percentage of the damages awarded. The success fee can be claimed from the defendant/insurers.

At the initial interview all funding options will be fully explored and explained in more detail and we will provide our advice as to the best funding option for the case.

Who brings the claim?

The law states that children under the age of 18 and persons who are not able to manage their own affairs by reason of mental disorder are defined by The Mental Capacity Act as lacking ‘legal capacity’ and cannot therefore bring a claim themselves.

An adult will be appointed to act on their behalf in such circumstances. The adult is usually a relative but could be any adult willing to act. This person is known throughout the proceedings as the ‘Litigation Friend’. The Litigation Friend is required to make decisions on the claimant’s behalf and to protect their interests throughout the litigation. We will explain the role of the Litigation Friend in more detail at the initial interview.

Any award of compensation, whether ordered or approved by the Court, will be paid into Court and invested on the protected party’s behalf. Even if the claimant is not a protected party, it may be wise to consider placing the compensation in trust.

“very personable individuals who really care about their clients.”

Chambers UK

In cases where the claimant is deemed to be a protected party the law provides that the Court of Protection must supervise their affairs and that a ‘Deputy’ oversees their day-to-day financial affairs. While some may wish to recommend a member of the family to act as the Deputy, we do not recommend this. It can be a daunting experience, particularly if that family member is also the injured person’s carer. We have therefore developed a specialist Court of Protection Team and have lawyers who can be appointed to act as your Deputy. Over the years they have gained valuable experience of dealing with the Court of Protection and their appointment will ensure that the claimant’s financial affairs are handled as smoothly and efficiently as possible.

What compensation will be received?

If the claim succeeds an award of compensation will be made. This will be calculated with the intention of putting the claimant in the same financial position as they would have been in had the accident not occurred as far as that is possible.

In practice this is virtually impossible as money never repairs a brain injury, but the Courts try as far as possible to achieve this objective by awarding compensation in a number of ways including:

General damages

This is the name given to the lump sum of money awarded to compensate the claimant for the actual injury and the pain, suffering and loss of comfort, convenience or enjoyment of life caused by it. Damages cannot be assessed until a number of expert medical reports have been obtained.

Special damages

This is money to compensate the claimant for all items of financial loss and expense that arise as a direct result of the accident. This will include, for example, loss of earnings, the cost or value of care and nursing provided, travelling expenses, the cost of purchasing special equipment, private medical treatment and compensation for items damaged or lost in the accident.

**“Superb service.
Nothing but praise.”**

Client

Future losses

These are monies to compensate the claimant for loss and expense, which it is anticipated they will suffer in the future as a result of their injuries. Needless to say, this involves a certain amount of ‘crystal ball gazing’. It is a difficult part of any claim to calculate. In most circumstances the Court awards a one-off final lump sum payment to cover anticipated future loss and expense but in appropriate cases an order can be made that the defendant pay an annual amount (a ‘Periodical Payment’) for certain parts of the claim e.g. care costs.

I want to see a lawyer, what shall I do now?

Contact us. We are happy to visit you in your home if it is easier.

We are an experienced, friendly and professional team so you have nothing to fear in contacting us for a free initial consultation. Contact Jonathan Clement, Partner, on 01892 510000 or email jonathan.clement@ts-p.co.uk.

About us

Following an accident involving brain injury it is vital to choose a lawyer who understands brain injury and has suitable experience in this area.

Thomson Snell & Passmore’s lawyers appreciate the complexities involved and offer a sympathetic service dedicated to mitigating the effects of the injury and establishing appropriate support as soon as practically possible.

There has been a growth in the number of organisations providing general personal injury compensation services. Where the injury is severe or complex, it is vital that you place your case in the hands of a fully experienced and accredited team who will put your interests first and strive for only the best results to safeguard the future of those seriously injured.

Our dedicated Personal Injury and Clinical Negligence team is one of the leading teams of specialist lawyers in this field. We are proud to have a very strong reputation for brain injury claims, with the depth and range of experience to provide you with an excellent service.

“I thank you so much for your excellent service and will recommend you strongly to anyone needing help.”

Client

We listen and question in order to understand our clients' individual circumstances, needs and objectives. We draw upon our experience to provide practical insight and relevant advice to all our clients, applying common sense to their situation and responding in an informed, straightforward manner.

The team pride themselves on their independence and the fact that clients are given a personal and compassionate service from day one. We actively support Headway and The Child Brain Injury Trust and continue to develop our skills and knowledge by our active involvement with these organisations.

Clients also benefit from the support and collective experience of the firm. As well as brain injury claims, we offer a strong network of lawyers to provide a comprehensive service, including the Court of Protection, provision of wills, trusts and tax planning plus buying or selling a home and all aspects of family law.

We regularly publish information sheets covering all aspects of law to help guide you through what can be a stressful process. Please visit our website, www.ts-p.co.uk, or make direct contact with specialist lawyers on 01892 510000.

Useful organisations

Headway – the brain injury association

Free helpline: 0808 8002244
www.headway.org.uk

Child Brain Injury Trust

Helpline number: 0845 6014939
www.cbituk.org

RoadPeace

Tel: 020 8964 1021
www.roadpeace.org

Royal Society for the Prevention of Accidents

Tel: 0121 2002461
www.rospa.co.uk

Child Accident Prevention Trust

Tel: 080 7636 2345
www.capt.co.uk

Children with Disabilities Team

The Children Act required all Social Services departments to establish a register of the number of children who are disabled in their area. Kent has established three area based registers to collect local information.

To find your local team contact:
Dawn Holroyd
Children's Disability Team
Tel: 01227 771686

Thomson Snell & Passmore is a law firm with a reputation for providing high quality, intelligent advice. We provide a comprehensive legal service and build long-term relationships by encouraging a culture of respect, understanding and excellence. **It's a common sense approach that's surprisingly uncommon.**

Member of the Law Society Personal Injury Panel
Association of Personal Injury Lawyers Accredited Firm
Member of the Headway Personal Injury Solicitors List
Member of the Child Brain Injury Trust (CBIT)
Member of the United Kingdom Acquired Brain Injury Forum
Member of the Law Society Clinical Negligence Panel
Member of AvMA (Action Against Medical Accidents)

Tunbridge Wells Head Office

3 Lonsdale Gardens
Tunbridge Wells
Kent TN1 1NX
DX 3914 Tunbridge Wells 1
T 01892 510000
F 01892 549884

Thames Gateway Office

The Old Rectory
St Mary's Road
Greenhithe
Kent DA9 9AS
DX 157310 Dartford 12
T 01322 623700
F 01322 623701

www.ts-p.co.uk

Thomson Snell & Passmore

Lexcel
Practice Management Standard
Law Society Accredited