

He is so engaging on his feet and his preparation of the evidence is so meticulous that it really is a bonus to have him in your corner

Chambers and Partners (2020)



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## Darryl Allen KC

Called in 1995 Silk in 2014 020 7583 9241

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Darryl Allen KC specialises in personal injury and clinical negligence litigation. He acts on behalf of claimants and defendants in catastrophic injury and high value fatal accident claims. Substantial experience of analysing difficult issues relating to local authority care and accommodation, large care claims and high value complex loss of earnings claims.

He represents patients and their families in clinical negligence claims. His caseload covers a wide spectrum of medical incidents, including delayed diagnosis of cancer, delayed diagnosis of infant brain tumour, surgical errors, birth trauma, failures in spinal anaesthetic technique leading to spinal cord injury, management of congenital heart conditions including infants, community and hospital management of diabetes and diabetic complications, failures in psychiatric care (community and inpatient) leading to suicide/attempted suicide.

Consistently recommended as a leading barrister in personal injury and clinical negligence work (Chambers and Partners/Legal 500).

## Personal Injury

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Darryl has practised in personal injury litigation since completing his pupillage at Farrar's Building. He advises and appears on behalf of claimants and defendants in substantial and complex claims, primarily brain, spine and fatal injury. Sitting as a Tribunal Judge on Criminal Injuries Compensation Appeals, he has substantial experience of analysing and deciding difficult issues relating to local authority care and accommodation, large care claims and substantial claims for loss of earnings.

Recommended leading barrister in personal injury work (Chambers & Partners and Legal 500).

### Sample recently concluded cases

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#### Location

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**LM** – Represented teenage pedestrian claimant who suffered severe brain injury when attempting to run across road from behind slowing bus on residential road. Lump sum settlement (net of liability compromise) at mediation of £6.375M.

**TC** – Represented defendant in claim brought by pedestrian claimant who required below knee amputation as a result of multiple fractures and multiple unsuccessful operations. Contentious issues as to whether TC had developed Complex Regional Pain Syndrome and risk of future “spread” of CRPS. Lump sum settlement at JSM of £750,000 after liability discount against £4.1M claimed.

**JG** – Represented defendant in claim brought by brain injured pedestrian claimant. JG required but was resistant to substantial levels of commercial care. £1M claim for potential cost of parenting support in addition to £6M personal care claim. Lump sum settlement of £6.5M against £12M claimed.

**BC** – Represented defendant in claim brought by brain injured passenger claimant leaving BC with profound behavioural problems. Unusual contributory negligence issues arising out of allegation that BC was not properly restrained by her seatbelt. Lump sum + PPO settlement of £3M + £125,000 p.a. for care and case management (£8.6M equivalent if lump sum only).

**WALLETT v VICKERS [2018] EWHC 3088 (QB)** – Represented successful claimant on appeal. C’s husband engaged in spontaneous racing with the defendant at high speed along a dual carriageway, leading to loss of control and death of husband and serious injury to passengers. Judge at first instance refused C’s claim by purported application of *ex turpi causa* defence. Overturned on appeal with 40% recovery in C’s favour.

**MN** – Represented defendant in claim brought by 76 year old pedestrian who suffered an above knee amputation following night time road traffic accident. Primary liability admitted but dispute as to contributory fault. Difficult issues surrounding prosthetics [given MN’s age, level of amputation and rehabilitation potential] and accommodation [pre-injury rented accommodation and limited life expectancy]. Lump sum settlement at JSM of £240,000 against £1.1M claimed.

**VF** – Represented defendants in claim brought by 4 year old infant claimant who suffered severe brain injury following road traffic accident. Complex causation/extent of injury issues where there was evidence of pre-accident speech, language and learning delay. Lump settlement at JSM of £1M against £8.1M claimed.

**DH** – Represented claimant who suffered serious injury in cycle accident. Liability compromised pre-issue. C had a long history of intravenous drug use with associated social problems. Difficult causation issues and *ex turpi* arguments. Lump sum settlement.

### Sample current cases

**Swift v. Carpenter** – Instructed by the Personal Injuries Bar Association as intervener in the compensation for accommodation/*Roberts v Johnstone* appeal in the Court of Appeal.

**EFJ** – Instructed by defendant in claim arising out of foetal injury sustained in road traffic accident leading to neuropsychological, cognitive and behavioural problems for infant claimant. Complex accommodation and care issues. Complex and contentious applications for interim payments to fund adapted accommodation.

**DB** – Instructed by tetraplegic claimant who suffered spinal cord crushing injury when operating cherry picker in confined and complex roof space as part of demolition project.

**EH** – Instructed by the defendant in claim brought by high achieving and ambitious junior doctor now tetraplegic following RTA.

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Very substantial and complex claims for loss of earnings, accommodation, care and technology [exoskeleton].

**BW** – Instructed by claimant who suffered severe brain injury as a result of fall from height working on scaffolded building site as general labourer.

**UZ** – Instructed by defendant in claim brought by teenage claimant who suffered severe brain injury in RTA. Substantial and controversial claim for 24 hour care for allegedly violent and volatile behaviour.

**MM** – Instructed by claimant who required below knee amputation as a result of collapse of garage wall at his own home during the course of building work undertaken by commercial contractor.

**RW** – Instructed by claimant who suffered severe brain injury as a result of off-road motor cycle accident on organised commercial off-road trip abroad. Allegations of failure to assess rider competency, plan, supervise and monitor the ride. RW has developed epilepsy and diabetes insipidus as a result of the head injury.

## Clinical Negligence

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Darryl is regularly instructed to advise and represent patients and their families in clinical negligence claims. His caseload covers a wide spectrum of medical accidents, including delayed diagnosis of cancer, delayed diagnosis of infant brain tumour, surgical errors, birth trauma, hospital acquired infection, management of infant and grown up congenital heart conditions, and community management of diabetes and diabetic complications. He has successfully represented patients in a number of cases of hospital acquired MRSA infection, securing substantial payments of damages at Joint Settlement Meetings. Recommended leading barrister in clinical negligence (Chambers & Partners and legal 500).

### Illustrative work

**JM v. East Lancashire Hospitals NHS Trust** – Represented Claimant who suffered cerebral palsy as a result of negligently managed labour and delivery (with Raymond Machell QC). Settlement of £1.425m lump sum plus PPO of £290,000. Substantial proportion of the full accommodation purchase costs recovered in response to Claimant’s challenge to the application of Roberts v. Johnstone in this case where the Claimant’s life expectancy was extremely short.

**(1) Morris and (2) Gent v. The Royal Cornwall Hospital NHS Trust (HHJ Cotter QC)** – Successfully

represented Claimants at five day trial arising out of negligent failure to diagnose appendicitis during pregnancy leading to premature delivery and death of baby; “nervous shock” and psychiatric injury.

**JW v. Lancashire Teaching Hospital NHS Foundation Trust** – Represented Claimant who suffered spinal cord injury following negligent performed spinal anaesthetic. Liability compromised at JSM. Quantum ongoing.

**PH v. Central Manchester University Hospitals NHS Foundation Trust** – Represented Claimant who suffered compartment syndrome and profound lower leg neurological injury as a result of negligently performed ACL reconstruction surgery. Lump sum settlement of £775,000 with provisional damages order in respect of future risk of amputation.

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**VT v. Various NHS Trusts** – Represented the estate and dependants of patient who took his own life following failures to provide medical care, psychiatric support and alcohol dependency support/treatment by various agencies. Settled at mediation. Approved settlement in respect of claims by infant dependants.

**MS v. D NHS Trust** – Represented Claimant in claim arising out of negligent failure to diagnose evolving cauda equina syndrome. Lump sum settlement of £1.6m

**DG v. Royal Bolton Hospital Foundation NHS Trust** – £1m (approx) lump sum plus step PPO (£17,500/£60,000) settlement arising out of negligent failure to diagnose and treat spinal abscess resulting in incomplete tetraplegia.

**KT v. AS** – Represented Claimant who developed grossly disabling chronic pain syndrome as a result of negligently performed lumbar disc replacement surgery (with David Allan QC). The Claimant was severely disabled and wheelchair dependent. Lump sum settlement of £3.9m (net of liability compromise).

**MR v. Wrightington, Wigan & Leigh NHS Trust** – Negligent management of anticoagulation resulting in stroke and hemiparesis. Significant issues as to causation and extent of injury in elderly claimant with pre-existing health problems. £250,000 lump sum settlement.

**PR v. Salford and Trafford Health Authority** – £625,000 settlement arising out of negligent historical failure to correct club foot deformity (1978) resulting in below knee amputation.

**Holly v. O'Malley & Ors (Elias J.)** – £500,000 settlement arising out of failure to diagnose and treat diabetic retinopathy leading to complete loss of vision for construction worker.

**M v. North Cheshire NHS Trust and Another** – Delayed diagnosis and treatment of breast cancer – Reduced life expectancy – Successful recovery of damages for loss of parental and domestic services during 'lost years' – £400,000 recovered.

**Chiles v. Bolton Hospitals NHS Trust** – Negligent management of 'grown up congenital heart condition' in pregnancy – Fatal Accidents Act claim on behalf of widower and two children – £400,000 settlement.

**RL v. Barnet & Chase Hospitals NHS Trust** – £330,000 settlement arising out of hospital acquired MRSA infection (liability denied).

**PM & Anor v. North Cheshire Hospitals NHS Trust** – Maternal death following negligently performed amniocentesis – Fatal Accidents Act claims on behalf of widower and child, and maternal mother (nervous shock) – £250,000 recovered.

**FO v. Blackpool Fylde & Wyre Hospitals NHS Trust** – £115,000 settlement arising out of hospital acquired MRSA infection (liability denied).

**Rosario v. St George's Hospital NHS Trust** – Failure to warn of risks associated with Botulinum Toxin treatment of recurrent temporo-mandibular joint dislocation – anxiety and depression – Judgment for claimant following 5 day trial.

**DW v. University Hospitals of Morecambe Bay NHS Trust** – Delayed diagnosis of post-partum haemorrhage at midwife led maternity unit resulting in hysterectomy and psychiatric injury – £82,500 recovered.

**PW v. Pennine Acute Hospitals NHS Trust** – Negligent nursing care leading to Grade 5 pressure sore – £75,000 recovered.

Sample current cases

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Multiple cases arising out of delayed diagnosis and treatment of evolving cauda equina syndrome.

Negligent performance of spinal anaesthetic leading to paraplegia.

Negligent failure to diagnose and treat aortic dissection leading to death of young mother in early post-natal period. Substantial and complex dependency claims on behalf of surviving spouse and children.

Failure to diagnose central venous thrombosis in patient undergoing chemotherapy for leukaemia. Representing family of deceased patient; “nervous shock” and secondary victims.

Mismanagement of labour resulting in cerebral palsy.

Failure to identify and treat maternal infection leading to cerebral palsy.

Delayed diagnosis and treatment of retinopathy or prematurity resulting in significant loss of vision

Negligent hip replacement surgery.

GP failure to refer patient presenting with obvious neurological symptoms and complaints resulting in delayed diagnosis of brain tumour.

Various claims arising out of negligent care in residential/nursing care homes resulting in severe pressure sores.

Mismanagement of labour resulting in profound brain damage to child leading to death in early life; psychiatric injury to mother and father as secondary victim.

Claim against EU plastic surgeon for negligent cosmetic surgery: loss of career as successful model.

Failure to diagnose congenital hip displacement.

Delayed diagnosis of infective arthritis in infant claimant resulting in significant hip deformity and major leg extension and reconstructive surgery. Liability eventually conceded after exchange of expert evidence. Quantum yet to be tried.

## Regulatory & Disciplinary

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Darryl is regularly instructed to represent the GMC before Fitness to Practise Panels.

Darryl’s professional negligence practice relates primarily to actions against legal advisers arising out of failed or inappropriately compromised personal injury and clinical negligence claims.

**GMC v. Dr C** – Misconduct. Surgery beyond competence of “Consultant” practising at Independent Sector Treatment Centre. Substandard surgery and subsequent dishonesty in relation to notes and communication with other surgeons.

**GMC v. Dr K** – Misconduct. Improper allegations to police against Consultant Colleague.

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**GMC v. Dr A** – Misconduct. Dishonesty. Falsification of qualifications in job applications and CVs. Dishonest misrepresentation to employer, GMC and police.

If you would like to instruct Darryl Allen KC or would like help or advice in doing so, please call and talk to our excellent clerking team, led by senior clerk Alan Kilbey MBE. Our phone number is +44 (0)20 7583 9241. Alternatively, please email us at [chambers@farrarsbuilding.co.uk](mailto:chambers@farrarsbuilding.co.uk)

For more information about our clerking team, please [click here](#) for the clerks page.

## Appointments & Memberships

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Attorney-General's Panel of Junior Counsel (1999)

Member of Criminal Injuries Compensation Appeals Panel (2007)

Counsel to T&N compensation scheme for victims of asbestos exposure (2007)

Tribunal Judge (Criminal Injuries Compensation) (2009)

Recorder (Civil) (2010)

Executive Committee Member of Personal Injuries Bar Association

Deputy High Court Judge (QBD and Administrative Court) (2017)

Chair of PIBA (2018)

PIBA

Action against Medical Accidents

Northern Administrative Law Association

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