



Your legal guide to Cerebral palsy

Cerebral palsy

When medical mistakes at birth cause cerebral palsy, the impact can dramatically change family life.

Having specialised in cases of cerebral palsy caused by medical negligence for many years, Slater and Gordon understand just how much life's plans can be altered. We strive to make the claims process as easy as possible for everyone concerned and ensure the best possible outcome is achieved.

Our specialists not only ensure you get the best possible outcome to your claim, but that your child receives the best available treatment and support, to maximise their quality of life and chance of future independence.

This guide is designed to help you understand the legal process and answer any questions you may have when making a cerebral palsy claim.

Deciding whether to pursue a claim is a very important decision and advice from specialist lawyers who are extremely experienced in this area of law is essential. Slater and Gordon's medical negligence team are experts in representing families who've been affected by cerebral palsy and have many years' experience, during which time they've been involved in a huge number of cases, many of which have been ground-breaking.

If you wish to speak to a medical negligence expert who specialises in cerebral palsy claims, please don't hesitate to contact us on **Freephone 0800 916 9011**.

Cerebral palsy claims

What is cerebral palsy?

Cerebral palsy is a condition which affects muscle movement and coordination and can also be associated with cognitive and behavioural issues. There's no cure, although physiotherapy and occupational therapy can help those with the condition to live as independent a life as possible.

It's often difficult to identify a child's symptoms until they begin to grow and develop. There are however noticeable symptoms as a child develops:

- + Delays in sitting, crawling and walking
- + Weak limbs
- + Jerky, clumsy or random uncontrolled movements
- + Walking on tip toes
- + Appearing stiff or floppy
- + Difficulties with eating, such as swallowing
- + Poor speech development
- + Impaired vision

If your child suffers from any of these symptoms, it doesn't mean that they have cerebral palsy. However, if you're concerned about your child's development, you should seek advice from your GP who'll be able to refer your child to a specialist for tests.

In what circumstances can you make a claim?

If cerebral palsy was caused by the negligence of a medical professional, such as a GP, doctor or midwife, then you may have a claim for compensation. These mistakes can include:

- + Failure to diagnose an infection
- + Failure to monitor the baby's heart rate
- + Mistakes when monitoring blood sugar levels
- + Delays in delivering the baby (often by Caesarean Section)
- + Misuse of drugs
- + Slow or inadequate treatment of jaundice
- + Complications with the umbilical cord cutting off oxygen
- + A slow response to signs that a baby is distressed

Our team of experts will guide you through the legal process and ensure that you not only get the best possible outcome to your claim, but also that your child receives the best possible treatment, equipment, accommodation and practical support, to enable them to have the best quality of life and grow up to live as independently as possible.

Why would you make a claim for cerebral palsy?

Making a claim can deliver accountability and improve medical practice so other families can avoid trauma in the future. Our focus is on delivering practical assistance to help your child to maximise their potential while maintaining and supporting family life.

Treatment and therapy

There are different types of cerebral palsy and different levels of severity. However, it's likely that your child will need treatment, such as physiotherapy and occupational therapy, to provide them with the best quality of life and maximise their chance of future independence.

As specialists in cases of cerebral palsy, we work with the best case managers and medical experts to ensure your child gets the best therapy available and ensure that we seek funds as part of the claim not only to pay for immediate treatment, but for also for treatment they'll need in the future.

New property / adaptations

In cases where your home is no longer suitable for your child's needs, we can also include new property or adaptations to your current property as part of the claim.

Aids and equipment

Where equipment is required, such as a specialised wheelchair or a hydrotherapy pool, we would also seek to recover these costs as part of the claim. We would also include aids and equipment that would be required in the future, for the lifetime of your child.

Care

Where your child needs additional care, we will also ensure care cost are included in the claim. Again, we would ensure that any care which may be required in the future is also included.

Financial security

We would ensure that any financial settlement your child received provided them with financial security for their future.

The claims process

Taking those initial steps to start the claim

Taking those initial steps to start a claim can often be daunting. However, we've made the process as easy and straightforward as possible. When you contact us, a dedicated member of our legal advice team will speak to you and take full details of the circumstances, including your child's diagnosis, the events which you believe led to your child diagnosis and any information received from the hospital or Trust.

Medical assessment

Our legal advice team will then pass all the information to our medical support team which consists of nurses and midwives. One of the midwives will then review the details you've provided and if they believe you may have a claim, they'll then apply for the records describing the birth and your child's medical records. If your child is of school age, they may also request school records.

Upon receipt of the medical records they'll then provide an in depth report of the case to one of our experts lawyers who specialises in cerebral palsy cases.

Legal assessment

An expert lawyer who specialises in cerebral palsy cases will review the report provided by the midwife from our medical support team and will contact you. We understand that it can often be a difficult time, so they'll arrange to speak to you via telephone, video call or a face to face meeting at either one of our offices or at your home, whichever is most convenient for you.

They'll provide you with their expert advice, talk you through the process and answer any questions you may have.

You'll also be provided with a welcome pack from your lawyer with documents for you to sign so we're able to continue with your claim.

Gathering evidence

In a case for cerebral palsy, it's our job to prove that negligence by the hospital or Trust caused your child's cerebral palsy. We therefore need to gather evidence.

Your expert lawyer will take a detailed statement from you as evidence and will also instruct medical experts to review yours and your child's medical records and prepare professional reports as evidence.

The type of medical specialists we instruct will depend on the type and severity of your child's cerebral palsy.

Advancing the claim

Once we have the evidence in place, we'll then put your claim to the organisation at fault, which is usually the NHS Trust running the hospital. The Trust will then consider with their legal team whether or not they accept they were at fault for any negligence. This is known as 'establishing liability'.

If they deny liability, and therefore don't accept they were at fault, we will negotiate with them to see if liability can be agreed. If after negotiations they still don't accept liability, we may have to attend a court hearing for a judge to decide if they were at fault.

Seeking interim payments

Interim payments are payments which are made as part of your compensation before the final settlement is agreed. Interim payments can be requested as cases such as these can often take quite some time before a final compensation figure is agreed, yet in the meantime, your child may need treatment, property adaptations, aids and equipment which simply can't be delayed.

This is why interim payments are a key part of our strategy in any cerebral palsy claim.

Instructing a case manager

Once an interim payment is received, to ensure your child is getting the best possible treatment to maximise their quality of life and chance of future independence, we'll instruct a case manager to review and put in place any treatment and therapy that your child requires.

The case manager will work with you and your child, enabling you to concentrate on your child's needs while we deal with all the legal aspects, meaning you won't have any additional worry.

Negotiations

Once we know the final prognosis of your child, we'll enter into negotiations with the Trust to determine the final amount of compensation your child should receive. Our cerebral palsy experts are well known for achieving substantial settlements in cases such as these.


If we're unable to agree a settlement with the Trust, a trial may take place. However, that's extremely rare as, given our expertise in these cases, we're able to settle the vast majority before a trial is necessary.

Settlement

When a claim relates to a child, it's a legal requirement that once a settlement figure is agreed, that it is put before a judge in a process known as 'approval'. This gives vital reassurance that the settlement is 'right' for your child.

This is because a child isn't able to agree that they're happy with the settlement figure negotiated on their behalf.

Once the judge confirms that they're happy with the settlement figure, the claims process will come to an end.

A photograph of a woman with long dark hair hugging a young girl from behind. The woman is smiling and looking down at the girl. The girl is looking towards the camera with a slight smile. They are in a kitchen setting with shelves in the background.

"My lawyers were efficient, friendly and reliable when dealing with Emily's claim."

Client story

Emily* was deprived of oxygen during birth as the midwives at the hospital had not monitored her properly. As a result, Emily has cerebral palsy and will need 24 hour care throughout her life.

Our expert lawyers instructed a case manager and successfully obtained an early interim payment for Emily to pay for a number of specialist treatments including physiotherapy, speech and language therapy and a dedicated care team who help to look after her.

Our Court of Protection experts were also instructed to act as professional deputy, looking after Emily's financial affairs.

The family home where Emily lived wasn't appropriate so, our medical negligence lawyers obtained a further interim payment and worked with our Court of Protection lawyers who assisted in buying Emily a bungalow, which was specially adapted for her needs.

Our medical negligence and Court of Protection experts have also worked closely with our independent financial planners, to ensure that Emily's compensation lasts her lifetime, which is a huge relief to her family, knowing that her financial future is secure.

**Our client's name and image have been changed for the purpose of anonymity.*

Frequently asked questions

How much does it cost to make a claim?

We understand that the cost of legal advice can be a worry, however there are options available.

Slater and Gordon are able to offer families the option of applying for legal aid. Legal aid is a Government funding initiative in the UK to help people pay their legal fees. It's important to note that not all law firms are able to offer legal aid funding for cases involving cerebral palsy. However Slater and Gordon is an exception.

Slater and Gordon is also able to offer 'No Win No Fee' funding. What this means is if you don't win your case, you won't have to pay any costs.

How much compensation do you get for a cerebral palsy claim?

The amount of compensation you're likely to receive depends very much on the severity of your child's condition and the impact it has on their life.

In addition, part of the claim covers any costs which have already been incurred and which will be incurred in the future, so will include the cost of any care, treatment, aids and equipment and any housing adaptations or property that's required now or will be needed in the future.

In many cases Slater and Gordon will invite the court to order guaranteed annual payments (called periodic payments') to cover regular expenses like care costs, ensuring a funding stream is available for life.

It's therefore difficult to provide an estimate of the likely amount of compensation your child will receive as every case is different.

Is there a time limit to bring a claim for cerebral palsy?

The law states that any claim on behalf of a child has to be brought within three years from the date of the child's 18th birthday in England and Wales or their 16th birthday in Scotland. However, there's no time limit if they don't have the mental capacity to make a claim when they become an adult.

Regardless of your child's age, Slater and Gordon are prepared to review and provide expert advice on cases whenever the injury might have occurred.

How long will the case take?

In all cases that involve an injury caused by negligence, the case is unable to settle until we're able to determine what the final prognosis is. This is a prediction of what the final medical condition and its effects will be.

In some cases involving children, it's difficult to predict what their final prognosis will be as they're still developing.

For example, it's impossible to determine what assistance a one year old with cerebral palsy will need when they're an adult. It's often not until a child reaches the age of six or seven that a final prognosis can be made.

This means that unfortunately, cases involving children can last quite some time and some cases, years.

Although this may sound daunting, please rest assured that we'll be taking care of the case behind the scenes, ensuring you have interim payments and support for everything you need, without you having to worry.

It's also important to note that we have a good working relationship with NHS Resolution, and work with them wherever possible to ensure negotiations take place as quickly and efficiently as possible.

Will I have to attend a court hearing?

We have a vast amount of experience in representing children with cerebral palsy, so are able to settle a vast number of cases before attendance at a court hearing is necessary.

If we're unable to agree a settlement, attendance at court might be necessary, however, this is extremely rare.

Why choose Slater and Gordon?

Highly experienced

Our highly specialist medical negligence team have been representing children with cerebral palsy for decades and have been involved in some of the most high-value and ground-breaking cases.

In addition, we work with a number of charities who support those affected by cerebral palsy and understand the difficulties which are faced, enabling us to support you every step of the way.

Strong reputation

We have a strong reputation for achieving outstanding results in cerebral palsy claims, as well as ensuring that the best available treatment and rehabilitation is also obtained.

Independent legal guides such as Chambers and Partners and Legal 500 have ranked our teams highly over the years and consider many of our lawyers to be leaders in their field.

Medical team of nurses and midwives

Our team, which spans across England, Scotland and Wales, also includes qualified nurses and midwives, including midwives still practicing and accredited by the Nursing and Midwifery Council (NMC).

They're able to offer bespoke medical advice in addition to the legal expertise provided by our specialist lawyers. Having a combined team of both legal and medical experts, provides you with an extremely strong and experienced team in your corner.

Treatment and therapy

We work with some of the best case managers and treatment providers in the UK to ensure the treatment your child receives is the best available.

We seek early interim payments a key part of our strategy to ensure there's funding to begin as soon as possible, maximising the chance of your child's quality of life and future independence.

A seamless end-to-end service for all your legal needs

As we're one of the largest consumer law firms in the UK, we have dedicated experts in a wide range of specialist legal services, who can offer bespoke expertise when it's needed, such as Court of Protection and family law, in addition to an independent financial planning company, who can help ensure any compensation received lasts a lifetime and provides financial protection.

Having these bespoke services enables us to provide you with an end-to-end seamless service for your legal and financial needs.



" We're very happy with the result of the case and are now able to care for Patrick properly."

Client story

When Patrick* was born the doctors didn't notice that he was struggling to breathe and took too long to expedite the birth. As a result, Patrick has cerebral palsy and a range of additional health issues which include epilepsy and respiratory problems.

Patrick's parents instructed our experts to represent him when he was just weeks old. Our midwives were able to provide Patrick's parents with much needed advice and guidance in the early stages, and our legal experts set to work on the case.

When Patrick reached seven years old a final prognosis was received and our legal experts were able to successfully settle the case for a substantial sum.

As part of the settlement, our experts negotiated funds for the family home to be adapted to meet Patrick's needs. Given the severity of Patrick's condition, this included full time carer accommodation, a fully equipped bedroom and bathroom for Patrick, a therapy room and hydrotherapy pool, which helps his chest function and spine.

This settlement has provided much needed reassurance for his parents and has made a great deal of difference to Patrick's life.

**Our client's name and image have been changed for the purpose of anonymity.*

What next?

Contact us

Given our many years of experience representing children and supporting parents who've been affected by cerebral palsy as a result of medical negligence, we understand the issues you're faced with and are here to help.

Our team are highly trained and will provide you with the best possible advice, as well as support and guidance.

Simply call us on

0800 916 9011

Other areas of law

We have experts in all areas of consumer law. Simply visit our website for information about:

- + Personal injury
- + Medical negligence
- + Court of Protection and deputyships
- + Wills, trusts and probate
- + Property and conveyancing
- + Family law and divorce
- + Employment law
- + Collective actions

GET IN TOUCH

0800 916 9011
slaterguson.co.uk

+ **Slater
Gordon**
Lawyers

Authorised and Regulated by the Solicitors Regulation Authority.