

Cara Guthrie

Call: 2000



Cara specialises in clinical negligence, and has done so since she started in practice 20 years ago. She also acts in personal injury cases, inquests, lawyers' negligence cases and in the Court of Protection.

Her clinical negligence practice straddles a wide range of medical issues, including complex and serious cerebral palsy, brain injury and spinal injury cases. She is instructed both on behalf of claimants and the full range of healthcare defendants. Cara has undoubted expertise in quantum and is a formidable negotiator. Her instructing solicitors have described her as *"decisive, focused, efficient and excellent with complex cases"* and *"fantastic at quantum and a great negotiator"*.

She has been ranked as a leading junior (Band 1) in clinical negligence in both [Chambers & Partners](#) and [Legal 500](#) since 2011.

Cara's professional negligence work generally arises from the management by solicitors and barristers of personal injury or clinical negligence litigation, reflecting her experience and knowledge of these fields. She is instructed by both claimants and defendants. She is a tenacious oral advocate, and successfully defended the barrister defendant in *Dunhill v W Brook & Co* [2018] EWCA Civ 50 at first instance and on appeal. Her instructing solicitors have described her as *"brilliant on her feet"*.

She represents both families and hospital trusts in inquests, often involving deaths in hospital. She has acted in cases of suicide, neglect and unlawful killing as well as natural causes.

She also undertakes personal injury cases, usually instructed on behalf of brain injured claimants.

Cara's Court of Protection work involves health and welfare decisions on behalf of P, their families and hospitals or local authorities. Most recently she has represented P in a dispute about the appropriate placement for P on her discharge from hospital.

'An excellent and very pragmatic negotiator.'

Legal 500 2021

"Cara is a standout barrister who is incredibly intelligent and very sharp. She's a very good advocate for her clients."

Chambers & Partners 2020

"She has an excellent grasp of the key issues in a case and takes a forthright approach whilst maintaining empathy with the client."

Chambers & Partners 2020

Clinical Negligence

Cara specialises in clinical negligence. She is instructed by claimants and defendants in complex and serious cerebral palsy, brain injury and spinal injury cases, either with a leader or on her own. Cara is also instructed in other clinical negligence cases covering the full spectrum of medical issues. Recent or ongoing cases involve obstetrics, neurosurgery, neonatal care, delayed diagnosis of cancer, psychiatry, general surgery, ophthalmology and gynaecology.

Cara regularly represents both families and NHS Trusts in inquests which means that she has a unique perspective on the requirements and needs of both parties in such cases.

Cara has experience of claims involving private hospitals and doctors, as well as GPs, the Ministry of Defence and NHS trusts. Many of her claims involve more than one defendant so she has first-hand experience of the tactical issues which commonly arise in such cases. A number of her cases have had an international element because, either the cause of action accrued overseas or, the claimant lives overseas. She has a particular interest in conflicts of laws issues.

As a member of the Ogden Working Committee, Cara has a detailed understanding of issues such as multipliers, discount rates and periodical payments which she uses for the benefit of her clients.

She is highly numerate.

Cara is highly ranked as a leading junior (Band 1) in clinical negligence in both [Chambers & Partners](#) and [Legal 500](#).

Selected Cases

- **IXH (2018)**: Acted as junior for the Claimant in a high value cerebral palsy claim. Complex issues of accommodation arose as C had divorced parents and the claim was presented on the basis that she needed two homes and would move in her lifetime. Case prepared for trial. Claim settled for c. £18

million days before trial.

- **MB v Colchester Hospital NHS Trust (2018):** Acted for Defendant in a case in which C alleged that negligent handling of the claimant caused her spinal cord injury to deteriorate from incomplete to complete. Claimant represented by leading and junior counsel. Case prepared for trial. Liability compromised at 50% only 2 days before trial, C having previously been resolute about accepting no less than 80%.
- **CJ v Barking & Redbridge NHS Trust (2018):** Acted for the Defendant in a case in which D had made partial admissions of breach of duty but denied causation of C's spinal cord injury. C represented by leading counsel. It was a complicated claim from a medical perspective as the Claimant was suffering from two separate spinal cord pathologies. The claim settled for £450,000 about two weeks before the liability trial.
- **LC v Dr Patel (2018):** Acted for the Claimant (from the earliest stage) in claim against a GP for failure to visit the Claimant and refer her for small bowel obstruction. Breach of duty, causation and quantum remained in dispute until the case settled very shortly before trial. Causation was particularly complex with D arguing that earlier referral would have made no difference to the outcome as the experts agreed that C's bowel had already perforated. The Claimant required careful and firm handling at times. Case settled for £400,000 at an RTM.
- **JM v Luton & Dunstable Hospitals NHS Trust (2018):** Fatal Accident Act claim by the widow of a young man (aged 36) who died from a heart condition. I was instructed at an early stage in the case. D subsequently admitted liability and the claim proceeded as a quantum only claim. Issues such as the deceased earning capacity and his health but for the negligence required careful consideration. Case settled for £560,000 at an RTM.
- **DA v Cambridge University Hospitals NHS Foundation Trust (2017):** Acted as junior for the Defendant in a cerebral palsy quantum claim. The case was far more complicated than normal because the Claimant lived in New York and claimed damages in excess of \$50 million. There were numerous UK and US experts. Issues about US education, US tax, the appropriate discount rate, accommodation, lost years, loss of earnings and care. Case settled for a combination of a lump sum and PPs with a capital value of £18 million.
- **EC v Kings College Hospital NHS Foundation Trust (2017):** A fiercely contested claim in which C suffered psychiatric injury as a result of clinical negligence. This case concerned the still birth of C's baby conceived by IVF. D contending that C was not a primary victim. Also factual causation dispute. Unsuccessful strike out application by C just prior to RTM set the ground for very robust negotiations at RTM. Case settled for £237,500.
- **D v Sandwell & West Birmingham Hospitals NHS Trust (2017):** Acted for the Claimants in a Fatal Accident Act claim arising out of a two month delay in the diagnosis of cervical cancer. The Deceased was a 32 year old mother of four children. Delighted to have achieved a settlement of £215,000 shortly before trial given the high risk of not establishing causation.
- **RH v North Devon Healthcare NHS Trust (2017):** Acted as junior for Claimant in a cerebral palsy quantum claim. The Claimant was a nine year old girl with severe physical difficulties, good cognitive ability but no verbal communication. Case required requantifying when the discount rate changed. Advised on the issue of recovery of damages for the cost of buying suitable accommodation and the evidence required. Settlement achieved at RTM for a combination of a lump sum and PPs with a capital value of £20 million.
- **TS v Barking, Havering & Redbridge Hospitals NHS Trust (2017):** Acted for the Defendant in a claim

arising out of the repair of a grade 2 tear. Advised in conference with the clinicians on several occasions. Advised that the claim had very little merit and client resolved to defend the case at trial. Claimant discontinued claim shortly before trial.

- **W v Colchester Hospital University Trust (2015):** Acted as junior for Claimant in an assessment of quantum. C suffered from cerebral palsy and had appalling behaviour which gave rise to difficulties managing the case from a practical perspective and also complicated quantum. There were issues about whether she would have (and be permitted to keep) children. The case concluded at an RTM for a lump sum and PPO worth a total of £9.0 million.
- **SM v Homerton University Hospital (2015):** Claim for damages arising from delayed diagnosis of appendicitis. C claimed for loss of earnings based on C's loss of a chance of promotion to Partner at a firm of solicitors. Case proceeded to trial but settled on the 3rd day for £750,000.
- **H v Kings College Hospital (2015):** Represented D in a case in which an elderly C had been rendered tetraplegic whilst undergoing surgery to decompress his cervical spine. Breach of duty involved consideration of the following issues: positioning of the patient, the standard of surgery, what could be seen on the imaging before and after surgery and the management of C after the operation. There were numerous factual and expert witnesses. Liability was hotly contested. Settlement of damages and costs reached at an RTM. The damages settlement included periodical payments and was worth c. £780,000.
- **SBF v Buckingham Healthcare NHS Trust (2015):** Represented Claimant in clinical negligence claim in which liability had been admitted. C had had a colostomy and also suffered from chronic pain, which was very disabling. Case settled at RTM for £900,000.
- **U v University Hospitals of Leicester NHS Trust (2014):** Represented D in a quantum only case; D had admitted liability for causing C's brain injury. Settled at RTM for a lump sum and PPOs worth £4.1 million.
- **Gomez v Royal Hospitals Cornwall NHS Trust (2014):** Represented Claimant in a surgical negligence case. Liability admitted. Most of the claim was for loss of earnings. RTM at which D offered only £400,000. Case prepared for trial but settled 1 working day before trial for £587,500.
- **Elton v MOD (2012):** Instructed as a junior for the Claimant who had sustained vascular injury following a wakeboarding accident and underwent an above-knee amputation. The case concerned provision of emergency vascular surgery to servicemen based in Cyprus – the MoD used a Republic of Cyprus hospital. Issues of the extent of the duty of care arose, as well as arguments about causation. Settled at a round table meeting.
- **Pendreich v James Paget Hospital NHS Trust (2012):** Instructed by the Claimant in a case concerning failure to inform GP of C's high blood pressure and prevent stroke. Quantum only. Issue about treatment of ongoing receipts of permanent health insurance. Settled for £2 m following a round table meeting.
- **DB v Surrey & Sussex NHS Trust (2012):** Instructed by the Claimant in a Fatal Accident Act case arising out of the death of his common-law wife from cervical cancer. Issues of causation and quantification arose. Settled at a Round Table Meeting.
- **BW v Norfolk & Norwich NHT Trust (2011):** Instructed by the Defendant in a case concerning the standard of breast reconstruction surgery and the management of an exposed implant. C claimed approx. £150,000. 4 day contested High Court trial on breach of duty, causation and quantum. Four factual witnesses and four expert witnesses. Judgment in favour of the Defendant.

Inquests

Cara regularly represents both families and NHS Trusts in inquests, which means that she has a unique perspective on the requirements and needs of both parties in such cases. Cara feels strongly that all families deserve representation in inquests.

Product Liability

Cara is currently acting for many claimants in the DePuy ASR prosthetic hip cases. She is also advising the defendant in a number of ongoing thalidomide claims.

Personal Injury

Cara is instructed mainly by claimants in complex and catastrophic injury cases. She has represented claimants who have suffered spinal cord injury, traumatic brain injury and amputation. Her wealth of experience in brain injury and spinal cord injury Clinical Negligence cases is invaluable when acting for claimants with similar injuries in personal injury cases.

Whilst many of her cases are quantum-only, she has also contested liability in road traffic and employer's liability cases.

Cara would be happy to accept instructions from defendants, and she regularly acts for defendants in Clinical Negligence cases.

As a member of the Ogden Working Committee, Cara has a detailed understanding of issues such as multipliers, discount rates and periodical payments which she uses for the benefit of her clients.

Selected Cases

- **R v Aviva (2015):** Represented a family of claimants injured in a road traffic accident. The father suffered a mild to moderate brain injury but there was a dispute about the aetiology of his cognitive impairments. The effect of his cognitive impairment on his future earnings was also in dispute. After the claimant rejected several low value offers, the case settled for £205,000. The daughter's claim for severe brain injury is ongoing.
- **H v Kings College Hospital (2015):** Represented D in a case in which an elderly C had been rendered tetraplegic whilst undergoing surgery to decompress his cervical spine. Breach of duty involved consideration of the following issues: positioning of the patient, the standard of surgery, what could be seen on the imaging before and after surgery and the management of C after the operation. There were numerous factual and expert witnesses. Liability was hotly contested. Settlement of damages and costs

- reached at an RTM. The damages settlement included periodical payments and was worth c. £780,000.
- **A v Barnet Hospital & Dr Hodge (2014):** Instructed to act as junior by Claimant in a case about delayed diagnosis of spinal tuberculosis, which led to tubercular meningitis and caused incomplete tetraplegia. Liability disputed by defendants who embarked on a cut-throat defence. Liability settled at 97.5% very shortly before trial. Quantum complicated by the fact that the Claimant's condition had improved substantially in the months before trial and the Defendant was postulating further improvement in condition. The case required two RTMs; D's valuation increased substantially by the second RTM. Quantum settled for a lump sum and periodical payments worth in excess of £8 million.
 - **K v Generali L'equite (2013):** Acted as junior for a young male claimant who sustained very severe brain injury in a road traffic accident in France. Very large claim for future loss of earnings. Case settled for well over £15 million.
 - **RXB v Royal National Orthopaedic Hospital NHS Trust (2013):** Together with David Westcott QC, acted for Claimant who sustained a spinal cord injury during surgery which was not recognised or remedied until 11 days later, ultimately causing tetraplegia. Complicating factor: C had been seriously disabled from birth. D admitted breach but difficult issues of causation and quantum arose, especially relating to C's outcome with proper treatment and how damages should be quantified in a case of serious pre-existing disability. At RTM D counsel, unusually, persuaded fundamentally to reassess the case. PPO settlement worth c. £7.0 million achieved post RTM.
 - **N v Imperial College Healthcare Trust (2013):** Together with David Westcott QC, represented Claimant in action against 2 hospital trusts for failure promptly to respond to symptoms of paraplegia after the removal of an epidural catheter. Detailed evidence about breach of duty and complicated arguments (by reference to published literature) on causation. Settled on advantageous terms (capitalised value of PPO >£1M for claimant aged 75).
 - **AC v Motor Insurers Bureau (2012):** Acted as junior counsel for the Claimant in a contested High Court quantum trial. Claimant sustained a severe brain injury in a road traffic accident. All heads of loss other than future care agreed prior to trial.
 - **Noble v Owens (2011):** Junior counsel for the Claimant in a contested 7 day fraud trial. The Defendant appealed against the award of damages, seeking an order for a retrial, on the grounds that surveillance evidence demonstrated that the judgment had been obtained by fraud. The Defendant failed to prove the allegation of fraud. The expert views were accepted that improvement was multi-factorial and it was held that the Claimant did not dishonestly conceal from the court or the expert witnesses his then true state of disability or dishonestly emphasise his disability. Landmark case in insurance fraud for Claimants.

Professional Negligence

Cara is instructed by both claimants and defendants in lawyers' negligence cases, most usually over the management or settlement of personal injury or clinical negligence claims.

She has recently successfully represented a barrister in a claim about the settlement of a personal injury claim at the door of the court.

Selected Cases

- **Dunhill v (1) W Brook & Co (2) Crossley [2018] EWCA Civ 50; [2016] EWHC 165 (QB):** Successfully defended the barrister defendant at a trial on breach of duty and in the subsequent appeal as junior counsel. She alleged that her former solicitors and barrister had negligently advised her to settle her personal injury claim at an undervalue at the court door. Elisabeth Laing J heard the trial on breach of duty and dismissed the claim against both defendants. Laing J was not persuaded that the barrister defendant "*had assessed the evidence incorrectly, still less, negligently*". Her decision was upheld on appeal.
- **Thoseby v Bakers Solicitors (2010):** Instructed to act as junior on behalf of the claimant. A Professional Negligence action arising from the solicitor's handling of a Clinical Negligence cerebral palsy case. Breach of duty by the solicitor admitted but dispute about whether the Clinical Negligence action would have succeeded – therefore effectively a Clinical Negligence liability case. Had to take an early view about the value of the claim before quantum had been investigated. Settled in 2010 at a round table meeting prior to the liability trial for £1.3 million.

Memberships

- Ogden Working Party
- PIBA
- PNBA