

# TOP 10 QUESTIONS: Cerebral Palsy and Clinical Negligence

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### 1. What is cerebral palsy and what causes it?

Cerebral palsy is a condition which makes muscle control difficult, affecting movement, posture and coordination. It is usually caused by an injury to the brain before, during or after birth. These can include:

- infection during the early part of pregnancy
  - lack of oxygen to the brain
  - abnormal brain development
  - restricted intrauterine growth (when the baby is smaller than it should be in the womb at its gestational age)
  - a difficult or premature birth
  - neonatal stroke
  - blood type incompatibility
  - a genetic link (on rare occasions)
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### 2. Are there different types of cerebral palsy?

There are 3 main types of cerebral palsy:

- **Spastic cerebral palsy:** where children have muscle stiffness and muscle weakness, which affects their range of movement. Limbs can be affected on both sides of the body or only one side.
- **Dyskinetic cerebral palsy** (sometimes referred to as dystonic, athetoid or choreoathetoid): where children tend to make involuntary movements because they find it difficult to control their muscles which change from floppy to tense. Speech and hearing may also be affected.
- **Ataxic cerebral palsy:** where children find balance difficult and their movements are uncoordinated. Speech may be irregular and hand movements may be shaky.

It is common for people with cerebral palsy to have a combination of 2 or more of these types.

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### 3. How will my child be affected by having cerebral palsy?

It is difficult to say how someone with cerebral palsy may be affected as people will be affected in different ways. In some cases, the condition is barely noticeable and your child will grow up to live a largely independent life, whilst in other cases the person will require help with every day aspects of their life. However certain conditions do occur more frequently in children with cerebral palsy. These can include:

- Mobility problems
- Difficulty with motor control and coordination
- Learning difficulties or cognitive impairment
- Difficulty with feeding, swallowing and speech
- Lack of bladder and bowel control, and difficulty going to the toilet
- Problems with sleeping
- Sensory impairment, eg. difficulties with hearing and visual acuity
- Difficulty processing shapes and spatial relationships
- Epilepsy
- Behavioural problems

#### 4. Can cerebral palsy be caused by clinical negligence?

Clinical negligence in cerebral palsy claims usually arises if there is a failure to deliver a child when there are indications of stress. A delay in delivery could mean that the child is deprived of oxygen, which causes permanent damage to the brain. Cerebral palsy may also be caused by errors after delivery, such as infection, jaundice, meningitis or a failure to treat congenital disorders. The main causes of cerebral palsy arising from clinical negligence include:

- Delay in delivery causing deprivation of oxygen
- Failure to diagnose and treat jaundice which can result in hyperbilirubinemia (increased levels of bilirubin in the blood) and kernicterus (this is a complication of neonatal jaundice, leading to brain damage that can cause death or long term effects including cerebral palsy and hearing loss. Pre mature babies are most at risk)
- Delay in diagnosing and treating meningitis
- Failure to diagnose and treat low blood sugar (hypoglycaemia)

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#### 5. What should I do if I think my child's cerebral palsy condition was caused by medical negligence?

If you think your child's condition was caused by a mistake which may amount to clinical negligence, you may want to seek legal advice from a specialist lawyer about bringing a claim for compensation.

The specialist cerebral palsy claims team at Leigh Day is made up of accredited clinical negligence solicitors, some with medical backgrounds. These solicitors have unrivalled experience in running these complex and challenging cases, and have been successfully securing multi-million pound settlements for their brain injured clients since the firm's launch in 1987. Leigh Day have experienced cerebral palsy and birth injury lawyers who have a deep understanding of the impact on families of caring for a disabled child and will be able to understand the complexities involved with bringing your claim.

Our client Vici talks about her experience of bringing a cerebral palsy clinical negligence claim with Leigh Day for her son Felix which you may find of interest. Her video can be viewed at:



[www.brainandspinalinjuries.co.uk/Cerebral-Palsy/Client-Stories/Felix-s-story](http://www.brainandspinalinjuries.co.uk/Cerebral-Palsy/Client-Stories/Felix-s-story).

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#### 6. Are there any time limits on bringing a claim?

The general rule is that an adult with cerebral palsy has 3 years from the age of 18 to start a claim, unless they have been assessed as never having legal capacity. However, in the case of children, the 3 year period starts from when your child turns 18 and ends when they turn 21. If your child is over 21, it may still be possible to extend this time limit if they are assessed as not having legal capacity. For example, if they are suffering from an intellectual impairment and cannot make decisions for themselves.

It is important to seek legal advice as soon as you can as this will make the investigation easier and will avoid any difficulties with the claim potentially being out of time.

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#### 7. How will a claim for clinical negligence help my child?

Caring for and supporting a child with cerebral palsy can be challenging – physically, emotionally and financially. Generally, any medical support will be provided through the Department of Health and your local authority. Your child may be entitled to a community care assessment to assess his or her needs and the assistance that may be required by the family or carers. Any equipment needs and help in the home identified in the assessment can be provided by social services.

However, budgeting restrictions and resources can often result in not all of a child's needs being fully catered for and delays in provision of equipment, assistance and services. Compensation can help to alleviate these concerns and ensure that your child has the care and equipment they need for the lifetime. This can greatly assist with making sure that your child has the best quality of life possible so that they can enjoy their life to the fullest extent possible.

Compensation can be paid by way of a lump sum, periodical payments or, more usually, a mixture of both.

The claim will provide compensation to cover the child's needs throughout his or her life and in most cases will include provision for:

- Care
- Physiotherapy
- Occupational therapy
- Speech and language therapy
- Assistive technology and equipment
- Transport
- Appropriate accommodation for the child and their family
- Special educational needs
- Loss of earnings
- Professional costs associated with managing the award of compensation

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## 8. How much compensation will my child receive?

Compensation for cerebral palsy claims will need to cover a child's lifetime care and other needs arising from their injury. There are therefore enormous costs associated with such cases and, in general, claims of this nature are valued at between £1 million to £7 million. The value of each claim depends on the individual circumstances of the case.

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## 9. How will I pay for the investigation of my claim?

Legal aid is available to investigate compensation claims for children who have been severely injured during the delivery or neonatal period. We can also consider other forms of funding such as a Conditional Fee Agreement (no win, no fee).

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## 10. Who can I contact for advice and support about caring for a child with cerebral palsy?

Organisations that can give you and your family support:

- Child Brain Injury Trust (CBIT): CBIT is a charity providing non-medical services to families affected by childhood acquired brain injury across the UK. Child Brain Injury Trust helpline: 0303 303 2248.
- Children's Trust: The Children's Trust is a national charity working with children with acquired brain injury, multiple disabilities and complex health needs.
- Scope: Scope support disabled people and their families at every stage of their lives and offer practical support – from education to everyday care. Scope support helpline: 0808 800 3333/ response@scope.org.uk.