

fieldfisher

# Amputee Claims Special

2016 Edition

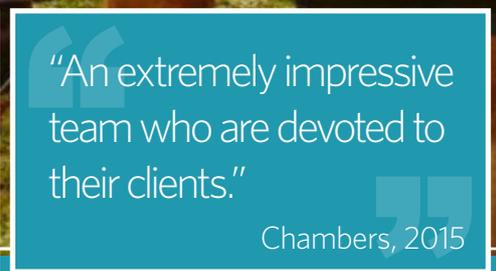
“Fieldfisher have an outstanding depth of expertise”

Legal 500, 2015

- **WINNER! Insurance firm of the year for Clinical Negligence: Legal 500 2015**
- **Top Tier for Personal Injury: Legal, 500 2015**
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## Fieldfisher Supports Paratriathlete Andy Lewis



Caring for our clients

Commitment to our cases

Cutting edge expertise

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## Welcome to our inaugural Amputee Special Brochure



**Paul McNeil**  
Partner

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Welcome to our first dedicated brochure showcasing our specialism in amputee claims. Whether you have suffered an amputation as a result of medical negligence or personal injury, at Fieldfisher we have the expertise to ensure you obtain the best possible rehabilitation and the highest possible settlement.

Our key focus is our client. We pride ourselves on the fact that a client will have a dedicated contact throughout the course of their claim. If a client instructs a Partner in our department then it will be that Partner that progresses the claim and who will establish and maintain the relationship with the client.

We put rehabilitation at the centre of everything we do. We push for funding under the Rehabilitation Code, early admissions of liability and sizeable interim payments to help put in place the best possible packages for our clients.

In this brochure we highlight some of the cases we have recently dealt with. The cases show the breadth of our expertise in dealing with amputee claims, be they as a result of medical negligence or personal injury. Our motto remains "Caring for our clients, commitment to our cases and cutting edge expertise" and this is evidenced by the cases highlighted in this brochure.

You will read about how we secured the highest reported settlement for an above knee amputee, how we have helped the young and the old, pedestrians, cyclists, motorcyclists, victims of accidents at work and victims of medical negligence and how we have sent clients to Sweden and to Australia to receive ground-breaking osseointegration treatment which cannot be provided in the UK.

If you have any questions at all about our expertise, I or one of the team, would be delighted to answer them.

**Paul McNeil, Partner**  
Head of Personal Injury &  
Medical Negligence

**"They're an absolute Rolls-Royce practice"**

Chambers & Partners



**WINNER! Insurance firm of the year for Clinical Negligence**

Legal 500, 2015



# The road to Rio

## Fieldfisher sponsor Andy Lewis

We are delighted to announce that Fieldfisher have entered into a sponsorship agreement with GB paratriathlete, Andy Lewis. Andy a through-the-knee amputee, is one of the world's top para-triathletes. He hopes to represent Great Britain at the Paralympics in Rio in September 2016 and will be attempting to qualify in a number of events leading up to the Paralympic games.

Andy, 32, lost his leg in a road accident when he was only 16 years old and decided to take up triathlon following the 2012 Paralympics.

His results over the past 12 months have been truly impressive. Last year, Andy won both the GB para-triathlon championships and the Madrid ITU para-triathlon.

This year he finished 4th in the European Championships, 3rd at the Madrid ITU event and 2nd at the Buffalo City ITU event.

Andy recently competed in the Rio test event against many of the athletes who will be competing in the Paralympics, on the exact same course that the Paralympics will follow next September, and finished 3rd.

Andy was introduced to Mark Bowman, partner in our personal injury and medical negligence department, by an independent prosthetics provider who also sponsors Andy.

Andy is a genuine contender for a medal at Rio 2016 and Fieldfisher are proud to sponsor him and be part of his journey over the next year.

In the coming months, Andy will be taking part in internal events for Fieldfisher.

You can find Andy on:

- Twitter - [@bladerunnerandy](#)
- On his blog - [www.andyjlewis.co.uk](http://www.andyjlewis.co.uk), or
- Watch an interview of Andy at - [www.fieldfisher.com/andyLewis](http://www.fieldfisher.com/andyLewis)



Mark Bowman, partner specialising in personal injury and medical negligence amputee claims said:

“As soon as I met Andy I was keen to help him and I am thrilled that Fieldfisher have entered into a sponsorship agreement with him, which will take him up to, and hopefully beyond the, Rio Paralympics in September 2016. Andy is a prime example of someone who has overcome his difficulties and is a perfect role model, for our clients and also the public at large. The next 12 months in the lead-up to the Rio Paralympics will be the most demanding but exciting of Andy's life and we will share his journey by providing regular updates of his training, progress and competition results. Please do follow him on twitter [@bladerunnerAndy](#) and support him all the way, hopefully to a gold medal next September.”



# £1 million recovery for 82 year old grandmother who lost her leg due to negligence by Queen's Hospital Romford and Basildon Hospital



On 27 March 2013, Paul McNeil issued proceedings on behalf of Irene who, at that time, was aged 82 years.

Sadly, Irene suffered an above knee amputation to her right leg, in January 2013, which we alleged was due to the negligence on the part of both Queen's Hospital Romford and Basildon Hospital. At the time proceedings were issued, the Defendants had offered to settle the claim in the sum of £3,500. In November 2014, the case settled for almost £1m, three days before the trial.

Irene was admitted to the Basildon Hospital on 26 October 2011. She had been complaining of pain in her right knee. In September 1996 she had undergone a right knee replacement. On admission, she was noted to have a high temperature, be clammy and have elevated markers for infection. She was given intravenous antibiotics to fight the infection.

From 31 October her treatment began to go badly wrong. A mistaken entry in her notes suggested that she had "lung cancer" (in fact, she had suffered from a dermoid tumour many years previously). The error was corrected by Irene's son (a GP). Nevertheless, a CT scan of the chest was performed on 2 November but the Request Form incorrectly stated that she had lung cancer. The radiologist reported the CT scan as showing metastatic lesions notwithstanding that there was a clear differential of bacterial pulmonary emboli - consistent with sepsis caused by the knee infection.

A consultant microbiologist was asked to consider the history and he concluded that, given the evidence of bacterial infection in the blood cultures, the lung lesions were likely to be "septic emboli". Incredibly and very sadly, this advice was ignored and later, overruled in a review of the CT scan by 2 consultant radiologists.

Irene was then referred to the palliative team and she was discharged home to die on 8 November. She was expected to succumb before Christmas 2011. She and her family were obviously extremely distraught, but had trusted the advice of the treating doctors at Basildon Hospital.

Between November 2011 and March 2012, Irene was treated as if she had terminal

lung cancer. The underlying septic condition remained largely untreated.

The family were surprised that Irene's condition did not deteriorate as they had been told to expect. She was confined to bed, but there was little evidence of the "cancer" progressing. Eventually, they sought a second opinion from a private consultant physician. The lung CT scan was repeated and this excluded the diagnosis of lung cancer because it revealed her lungs were completely normal.

She was then referred to the Queen's Hospital in Romford (the second Defendants) for treatment of her infected knee prosthesis on the right side. Even then, the investigations and treatment were very slow. Irene required the infected prosthesis to be removed quickly so as to

avoid significant flare up of the infection. The revision surgery was not listed until 11 January 2013 (by which time, the knee had become badly infected and very painful). Removal of the prosthesis did not improve the, by now, rampant infection and on 2 February 2013, a trans femoral amputation of the right leg took place.

The evidence of medical negligence was strong but the defendants' legal team took every point possible and failed to recognise just how significantly the injuries caused by the negligence had affected Irene and her family. Three days before the trial, the Defendants finally made a realistic offer to settle the claim. The compensation (some of it paid by way of an earlier interim payment) allowed Irene to extend the ground floor accommodation at home and to pay for professional care and therapies.



After the case her GP son said:

"Paul performed brilliantly on behalf of our family, always listening and keeping us up to date with the case and making a sensible case for damages. It does not give Mum back her life, but the settlement means we as a family know that her future care is guaranteed financially."

# Cyclist wins 100% of claim three years after life changing accident



uses a wheelchair and is learning to walk using a prosthetic limb. She is receiving intensive rehabilitation and requires help from her partner, James, carers, family and friends. The road to recovery will be long and difficult.

RSA the insurer responsible for the accident, initially claimed that Veronika had failed to take proper care for her own safety. A criminal trial was held in the summer of 2012, in which the Defendant driver was found guilty of careless driving, fined £1,300 and given 5 penalty points on his licence. Surprisingly, the argument continued with the Defence maintaining that Veronika should accept to being partially at fault. RSA suggested that she should accept a 20% reduction in her damages claim to reflect this. Following lengthy civil litigation a trial date was set. But just weeks before the trial the Defence finally agreed to judgment being entered which means that Veronika will recover her damages on a 100% basis.



Fieldfisher has won a significant victory on behalf of cyclist

Veronika Pete, who was left with life-changing injuries after a 2010 accident in the West End.

Veronika, a 31 year old marketing professional from central London, was run over by a lorry crossing lanes to turn left on the Marble Arch gyratory on 7th December 2010. Acting on behalf of the defendant, insurance company RSA alleged that Veronika was partially responsible for the accident, despite the driver being found guilty of careless driving as well as the vehicle not being fitted with adequate mirrors or safety equipment. Having initially suggested 20% liability should be accepted by Veronika, RSA gave in and acknowledged full liability just weeks before trial.

Veronika was cycling along her regular

route to work, travelling around the Marble Arch gyratory and heading towards Oxford Street past the exit to Edgware Road. The driver of the heavy bullion vehicle, stated that he had seen the cyclist but then lost sight of her. He assumed she had turned left, taking the exit to Edgware Road. In fact, Veronika was at the front of the bullion vehicle below the cab's line of vision. The vehicle was not fitted with mirrors designed to increase visibility now recommended for new HGVs. The driver turned left across the lane, dragging Veronika under the lorry's wheels.

She was rushed to St Mary's Hospital, Paddington, where she received emergency life saving treatment. Her leg was amputated above the knee and her other leg was severely damaged along with other tissue and orthopaedic injuries. She was transferred to Charing Cross Hospital where she spent several months undergoing multiple operations and recovering from the impact of the accident. Veronika now

Commenting on the development, Veronika Pete said:

“I hope that what I have been through will help other victims in a similar situations stay strong in the face of legal pressure. But I hope especially that the insurance industry will see this as a wake up call and realise the importance of being fully accountable for insuring fleets of ill-equipped vehicles.”

# Builder claims £300,000 from property owners after collapsed building trapped him for 10 hours



Paul McNeil represented Grigore Vraja in a work accident claim against property owners Bashir Nathoo and Shirazali Boghuni. Grigore's accident

occurred when the building on Dean Farrar Street in London collapsed. Grigore had been working on illegal renovation works at the time of the incident as the property owners had no planning permission for converting the building into a hotel.

Grigore was trapped for 10 hours in the wreckage of the building after the top two floors of the five-story building collapsed on him in June 2007. After the rescue by the fire fighters his leg was amputated at the hip, leaving him devastated at the age of only 22.

Bashir Nathoo and Shirazali Boghuni admitted liability and paid £300,000 in compensation to Grigore.



Paul McNeil commented:

“Mr Vraja is absolutely devastated at the loss of his leg. He is still a young man - this accident has affected his work and life beyond belief.”

# A mother who had a routine knee replacement operation ended up losing her leg after hospital failings.



Khalida Chowdhery developed a life-threatening condition after the operation and her right limb had to be

amputated above the knee.

Staff at Whipps Cross hospital failed to assess her properly after her knee replacement and delayed referring her to a medical team when she complained of severe pain.

Khalida's family brought a compensation claim against the Barts Health NHS Trust.

Mother-of-three Mrs Chowdhery, 66, from Woodford Green, was admitted to Whipps Cross last October for the knee procedure.

After the operation she woke up in severe pain and complained to staff that her foot felt cold. Her distress continued over the weekend so nursing



staff increased her pain medication. She was not seen by a member of the medical team until four days later.

They discovered a main artery had been damaged during the knee operation and pressure inside her leg muscles stopped blood flowing

Her son Mr Chowdhery, said:

“The pain my mother endured was horrendous. We were beside ourselves and continually asking for assistance but the nurses and doctors seemed to behave as though her symptoms were normal. We will never forgive those responsible for causing my mother to go through such pain and what will now be life-long suffering.”

properly. Doctors transferred Mrs Chowdhery to the Royal London hospital where her leg was amputated.

Her son Anjum said the pain was so bad at one point that his mother was already begging staff to remove her leg.

Liability has now been admitted and a quantum trial listed for December 2015.

## Compensation for a woman who has all her toes and part of her left foot amputated after she developed a life-threatening infection



Leanne was diagnosed with breast cancer in May 2009 and underwent a double mastectomy. Her left cancerous breast was removed at

Stepping Hill Hospital on 20 May 2009. The right breast was removed as a precaution in 2010 at the Wythenshawe Hospital. Expanders were fitted in both breasts to expand the skin in readiness for reconstructive surgery with Mr Wilson at Wythenshawe Hospital. Mr Wilson planned to reconstruct both breasts at the same time.

On 25 February 2011 Leanne attended Wythenshawe Hospital for reconstructive surgery. The doctor who she was seen by mentioned making a new incision in her breast. Her previous surgeon had told her he wanted to use the existing scar. She mentioned this to her treating doctor who agreed to this and then Leanne signed a consent form. She was under the impression that her previous surgeon Mr Wilson would be performing the surgery.

Prior to undergoing surgery she was seen by Mr Barbar and Dr Tomaz who again mentioned making new incisions. Once again she insisted that they should use the existing scar and they agreed.

When she came round from the surgery, she was not happy with the results. Her right breast appeared to be pointing downwards and her left breast was half the size with a large flap of skin which looked misshapen. She was discharged with drains in both her breasts the following day. She was not given any antibiotics. Upon discharge, she was in pain but felt this was to be expected. She was concerned however that she had not been given antibiotics as she remembers having them previously.

Post operatively Leanne's health deteriorated and on 4 March 2011 she

was rushed to A&E at Stepping Hill Hospital. In the ambulance her kidneys began to shut down. On arrival at hospital she was put on dialysis and a life support machine. Her partner was told her organs were shutting down and she was in a life threatening condition.

She was referred for a scan and a huge amount of infection was found behind the left implant. She was operated on to remove the entire left cavity. Following surgery she was in intensive care for 6 days.

Due to the blood being drawn away from her extremities in an effort to protect her vital organs, she lost blood flow to her fingers and toes. She developed dry gangrene and had to have her fingers and toes amputated.

We obtained her extensive medical and treatment notes and instructed a Consultant Breast Surgeon to report on liability. Liability was admitted in response to a letter of claim. Proceedings were issued protectively and judgment was entered in Leanne's favour.



We commissioned quantum evidence from experts in orthotics; care and occupational therapy; pain management; rehabilitation ; orthopaedic surgery; psychiatry; and accommodation.

Settlement was reached for a capitalised sum of £1.592million. Leanne has been able to purchase and adapt a more suitable property and has employed a support worker to assist her around her home. Through the provision of highly specialised orthotics and a coordinated psychological pain management program, Leanne has started to look for work again. Leanne's life will never be the same, but bringing this claim has restored her independence and quality of her life.

Iona Commented

“Leanne is a remarkable woman. Leanne was devastated by events in 2011 and I am delighted that she is now able to piece her life together”.

# Osseointegration - The future of prosthetics?



Over the past 20 years or so there has been a slow but steady revolution in the field of prosthetics. The fact that you are almost certainly unaware of it is because the revolution has been taking place abroad but not in the UK. The revolution I am talking about is osseointegration.

## Oeseointegration

Osseointegration was initially discovered by Professor Branemark in 1952. In short, he conducted an experiment where he utilised a titanium implant to study blood flow in rabbit bone. At the conclusion of the study, he discovered that the bone had integrated with the titanium so that the latter could not be removed. He started to develop this process initially in the field of dentistry, but then in orthopaedics.

The treatment process has been available in Sweden since 1990 but it is since 1999 that the primary concern, infection, has been greatly reduced, and the treatment has been accepted as mainstream as opposed to experimental.



The process involves the insertion of a titanium rod into the femur. Following insertion the titanium rod and bone integrate, meaning there is no need to use a socket when fitting a prosthetic limb. Such treatment was, at one stage, available in the UK, but following a trial, the programme was ended.

## Why choose oeseointegration

Swelling of the stump is normal following any amputation. Residual limb shrinkage is inevitable and varies from patient to patient, sometimes lasting years. The socket is the receptacle for the amputee's residual limb, and forms the interface with the prosthesis. It is generally agreed that the socket is the most important part of any prosthesis. The socket may be constructed from a number of materials. The shape of the socket is vital and must provide stability for the residual limb within the socket so that the amputee may transfer his own movements into functional prosthetic movements. If the socket fails to fulfil these requirements, not even the most sophisticated prosthesis will function properly.

As a result of socket problems an amputee will sometimes be unable to wear their prosthesis and instead be forced to mobilise in a wheelchair. Rehabilitation is often delayed, weight gain is not uncommon and an amputee's mental state is likely to deteriorate. We have all had clients that have had to go back and forth to the prosthetics provider as they try to mould a socket that fits.

This is extremely frustrating for the client and extremely expensive for the Defendant insurer or NHSLA.

An example of the above was Mark, whose case you can read about in more detail later in this brochure. Mark was discharged from Queen Mary's Hospital on 23 December 2008 with an NHS prosthesis. He needed to wear two



thick towelling socks between the liner and the socket to ensure that a fit was achieved, but this was unsatisfactory. Below the socket, Mark was provided with a standard pneumatically controlled aluminium prosthesis and rubber foot. This proved unreliable and he fell on numerous occasions.

Mark was assessed for private prostheses, and these were purchased in early 2009. In spite of this, he suffered from dermatitis, pain and immobilisation at times. Despite being continually assessed over the next 12 months, no solution could be found to his problems.

As a result of this, extensive research was conducted by Mark's legal and rehabilitation team to examine the alternatives. Using a wheelchair frequently was not an option for him.

Osseointegration was deemed the only potential solution to Mark's ongoing issues as he did not qualify for the ITAP programme available in the UK as he was involved in a personal injury claim, which automatically excluded him.

It is fair to say that socket problems are not the only reason for choosing osseointegration. Take Viktorija as an example. You can read more about her case later in this brochure, but a primary reason for her choosing osseointegration was that she was fed up with the appearance of her socket. Viktorija felt it made her feel less feminine, was embarrassed to be seen in public, and her rehabilitation had ground to a halt. Since she underwent osseointegration surgery her life has been completely transformed and she has even been asked to model prostheses by a leading prosthetics provider.

Both Mark and Viktorija now walk with a better gait, require less physical exertion to walk, are more comfortable when sitting due to movement not being restricted by the protruding edges of a socket and report a greater sense of osseoperception, the unconscious perception of the body, movement and spatial orientation in relation to the external environment.

### Is it suitable for everyone?

The short answer is no. An amputee will need to be aware of the potential risks of the procedure, most notably infection. There are also strict criteria which need to be met before an amputee will be permitted to have surgery. They will need to be a non-smoker, have good bone density and pass a psychological assessment which will discuss the amputee's reasons for having surgery, thoughts about the process and explain it in detail. The majority of those that have had osseointegration are transfemoral amputees but it is also possible for transtibial and through the knee amputees as well. It is even possible for bilateral transfemoral amputees. Michael Swain MBE was serving with the British Army in Afghanistan when he stood on an IED, resulting in him losing both legs above the knees. After struggling to come to terms with his injuries, Michael obtained funding through the army and became the first even bilateral amputee to undergo osseointegration surgery.



### Where is it available?

Currently osseointegration is not available in the UK. Steps are being taken to rectify this but it cannot be said with any certainty that there will be a change any time soon. For now the options are for a client to be treated in Sweden or Australia. Of course the former might immediately appeal as a result of it being considerably closer to the UK, but it should be noted that there are quite significant differences between the treatment options being offered at the two centres.

Sweden certainly has the benefit of more years' experience, the treatment having been available since 1990 and therefore a considerable amount of expertise has been obtained. The costs involved in travelling to Sweden are also certainly less than those involved in sending a client to Australia. The flipside to all this however is that the treatment process which has been adopted in Sweden is much slower than that which is provided in Australia. Mark's case provides an example of the treatment protocol that is followed.

Michael Swain MBE, discussed osseointegration and the effect it has had on his life.

“Osseointegration has dramatically changed my life. Going in to the operation I didn't know what to expect because at that time there had only been one or two people from the UK to of had the surgery. I went into the operation thinking I would be walking one to two hours a day, but I found that as I was doing more and more I was able to use my legs full time, all day.

I'm pleased that Fieldfisher are aware of Osseointegration and are pushing it forward. Hopefully after seeing Fieldfisher being on-board, others will join and realise the possibilities.”

# Osseointegration - The future of prosthetics?

Mark was offered an appointment in Sweden in December 2010. I was concerned that there would be problems securing funding for such treatment from the Defendant, as such a request had not, it appeared, been made in any previous cases in the UK. In spite of that, and to the insurer's credit, funding was agreed for the treatment.

Mark was deemed a suitable candidate for surgery and he flew back to Sweden in June 2011.

**Stage 1** - surgery was performed under epidural. Surgery involved the titanium fixture being inserted into the residual femur with the skin then closed. Surgery was successful and he returned to the UK within 12 days.

Mark was under strict instructions not to weight bear in the immediate period following his return home but at six weeks post-surgery it was vital for him to weight bear again. He was able to use his previously provided prosthesis, albeit with the same limitations that existed beforehand.

**Stage 2** - surgery typically takes place 6 months after Stage 1 surgery and Mark flew out to Sweden in November 2011. Stage 2 surgery went well and involved the addition of an abutment to the titanium fixture, to which the prosthesis would eventually be attached. He was able to again return to the UK promptly having recovered from surgery.

Four weeks later he was back in Sweden for his first rehabilitation appointment when he was fitted with a prosthesis enabling him to partially weight bear. Mark immediately noticed the improved sensation of the prosthesis, commenting that it was "part of me" and did not feel as if it was attached to him.

Additional trips to Sweden for further rehabilitation took place in March, May and November 2012, by which time Mark was fully mobilising using his previously purchased prosthesis. Though Mark still faces many challenges in the future, from a prosthetic point of view he is now in a better place than he ever imagined whilst he was struggling with a socket based prosthesis.



The process in Australia is very different. Professor Al Muderis who heads up the team, has developed a single stage surgery which has the huge advantage of reducing the time it takes for the amputee to move from a socket based prosthesis to walking with an osseointegrated prosthesis. Whilst his team does not have the years' experience of the team in Sweden they are seeing more and more amputees come through their doors from all around the world due to the fantastic results he is achieving.

## Litigation tactics?

Defendants are likely to question the need for such surgery during the litigation given the lack of availability of osseointegration in the UK and the fact that the long term effects are still unknown. This should not prevent a claim from being made.

A witness statement from the claimant setting out the reasons why he/she wishes to undergo osseointegration, together with a statement from the instructed solicitor setting out the costings, process, and expert opinion advising the surgery is a reasonable option, should be enough to at least ensure that at any interim payment application, a favourable result is secured.

An important consideration for trying to sell osseointegration to a defendant insurer is that with a well-fitting prosthesis, the claimant's ability to rehabilitate will be considerably improved.

While the claim for medical expenses may increase due to the above costs, other heads of loss should fall. The primary benefit of osseointegration is

that it negates the need for sockets, which typically cost £4,500 to £6,000, to be replaced every 5 years.

For a claimant with a long life expectancy, as most patient's that qualify for osseointegration will be, there can easily be a cost saving of £30,000+ as a result of no longer requiring sockets.

## Costs

Costs will vary from patient to patient but during the course of Mark's litigation the following costs were incurred in securing treatment in Sweden:

- Flights/hotel accommodation for Claimant and mother for 12 separate trips - £27,500
- Initial Assessment - December 2010 - £1,207
- Pre Operative appointments (two in total) - £2,951
- Stage 1 Surgery - June 2011 - £27,745
- Stage 2 Surgery - November 2011 - £36,400

- Follow up Appointments (months 1,3,6,9,12 and 18, including adjustments to prostheses - £20,717
- Sub Total of cost of treatment during the litigation - £90,000
- Further follow up sessions are anticipated at 3,5,7,10 and 15 years post-surgery and these were claimed for at a cost of £3,000 per session, to include travel and accommodation expenses.

**The total figure claimed for the surgery and associated costs was £132,500.**

This does not include the cost of prostheses which need to be allowed for in the usual way.

For Viktorija, who travelled to Australia at the conclusion of her claim, the costs claimed were as follows:

- Flights/hotel accommodation for Claimant and mother - £16,000
- Surgery costs - £15,125
- Hospital admission and inpatient

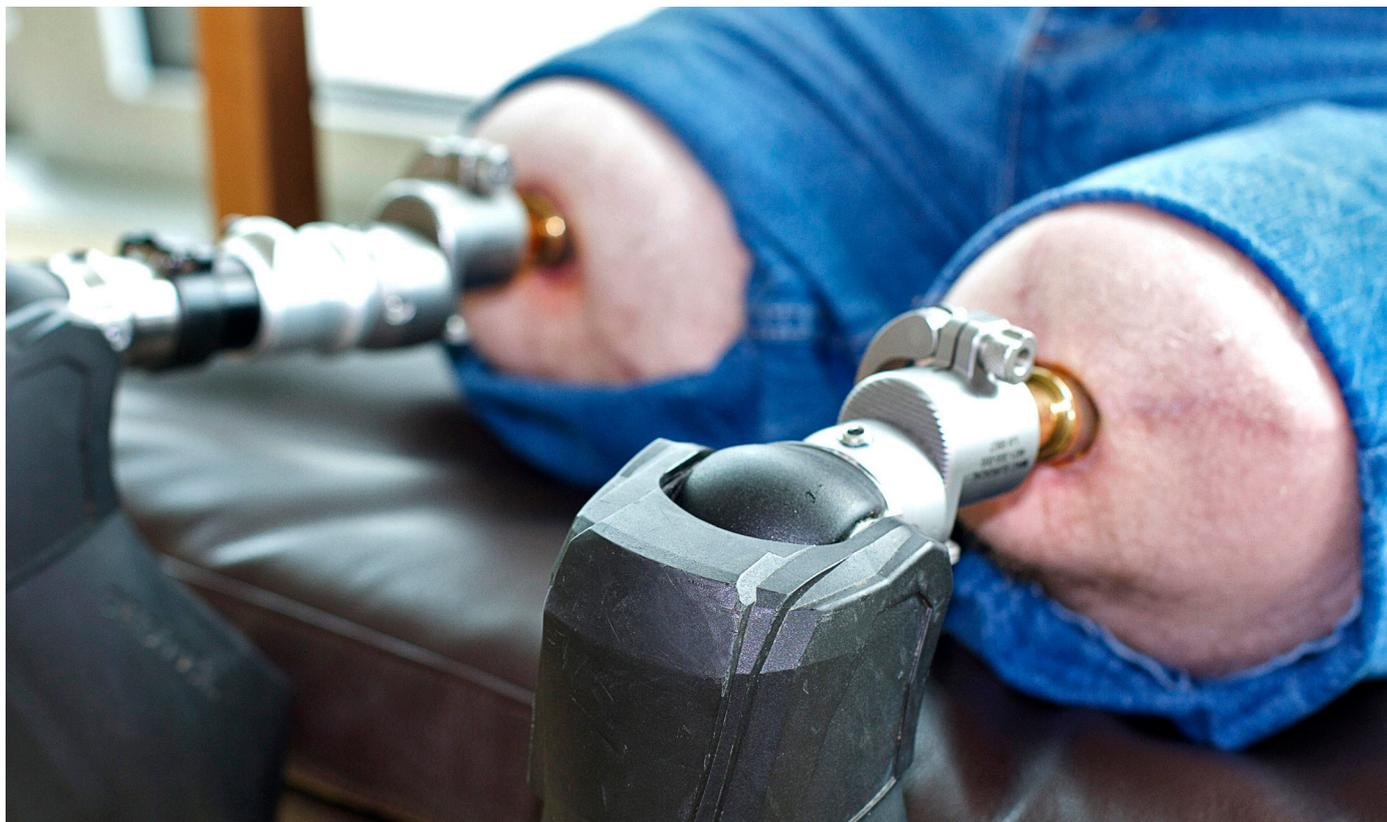
fees - £12,223

- Anaesthetist and pain management fees - £3,080
- Implant Fee - £19,250
- Physiotherapy fees - £1,375
- Prosthetist costs - £1,375
- Follow up costs for 6 week, 3 month and 6 month review plus yearly x-rays, DEXA bone scans and functional testing - £50,000

**The total figure claimed was therefore £118,428.**

## Conclusions

Osseointegration is a new and exciting form of treatment that is a viable alternative for many amputees. Solicitors should be aware of it and discuss it with appropriate clients. If anyone wishes to speak to patients that have undergone surgery in Sweden or Australia, then I know that Mark, Michael and Viktorija will be happy to speak to them.



## Prince Harry meets Osseointegration pioneer Munjed Al Muderis



Recently Prince Harry met with his colleague and friend, Lt Alistair Spearing, a decorated British lieutenant who lost his legs in Afghanistan, and orthopaedic surgeon Munjed Al Muderis, whose pioneering surgery has helped my clients Viktorija and Mark to walk again after losing their limbs.

Dr Al Muderis opened his own orthopaedics practice in Sydney in 2010 and has since become one of the world's most successful orthopaedic surgeons and a pioneer of osseointegration with his patented titanium rod implant which allows for a more manageable connection between the bone and prosthesis.

It's great news to hear that Osseointegration is finally getting the exposure it deserves. In my experience it can make a real difference for amputees who are struggling to cope with socket based prostheses for whatever reason, be it cosmetic, emotional or physical. Either way it is clear to me that it is the way forwards for some amputees and more needs to be done to ensure it becomes more readily accessible in the UK for civilians as well as military personnel, who have the benefit of MoD funding.



Prince Harry witnessed Alistair walking again on parallel bars weeks after his successful osseointegration and commented:

I think what they're doing here is absolutely amazing. Osseointegration is, as far as I can see it, the way forward for single amputees or double amputees above the knee. I've been in negotiations with Munjed and we're going to get him across to the UK... because it's life changing, it really is.

## Fieldfisher supports the City Cycle Scheme



The City of London Road Danger Reduction Team was launched the Women's City Cycling Network (WCCN) on October 2015.

The network has two primary aims:

- First, to engage with female city cyclists with a view to reducing casualties. London has a disproportionate number of female cyclist casualties and the last two fatalities in the City have been women. This is a targeted measure seeking to promote safer cycling.
- Second, to promote cycling as a measure to improve health and wellbeing. It is hoped that increased cycling will improve fitness levels, reduce obesity (and associated

complications) and in turn reduce absenteeism.

Presentations from; **PC Alex Sweet** – City of London Transport Police Office, **Thomas Konig** – Vascular & Trauma surgeon, RLH, **Cythia Barlow** – Chair Roadpeace, and **Hannah White** – of TFL's Freight & Fleet Programmes were all very well presented and hugely inspiring. Things must change.

It was a pleasure to meet the team from London Air Ambulance and an eye opener to sit in the cab of an LGV.

A special mention must go to Sheila Moules and Emma Norton from City of London for orchestrating such a great event. Thinking of every last detail and even managing to find some penny farthing riders!



# Over £3 million compensation recovered for above knee amputee requiring



Mark Bowman was instructed by Mark following an accident at work on 16 June 2008. Mark was operating a JCB telescopic handler on a construction site on St Michael's Drive in Kent. The machine was not suitable for the job that Mark was being asked to carry out and toppled over, causing Mark to suffer severe crush injuries, in particular injuries so severe to his left leg that it required a trans femoral, or above-knee, amputation. In addition he suffered severe injuries to his right leg including compound fractures to both the tibia and fibula. The injury to the right leg was so severe that there was a high risk of it also requiring amputation, but following multiple surgical procedures, and the use of an Ilizarov frame for over five months, it was saved.

Due to the nature of his injuries Mark remained in patient at the Royal London Hospital until 8 September 2008 at which point he was discharged to Queen Mary's Hospital in Roehampton for further rehabilitation. He was not discharged home until 21 December 2008, some 6 months after his accident.

Mark required specialist accommodation and we were able to obtain sizeable interim payments in order to secure suitable, single level, rental accommodation for him throughout the conduct of the litigation.

Despite liability being firmly in dispute we were also able to obtain funds in

order to enable Mark to obtain private prosthetics. Unfortunately Mark's residual stump kept changing shape meaning that he was unable to use a socket with his prosthetic limb. This placed him in a very difficult position, as the most readily available alternative would be to use a wheelchair, something Mark was determined to avoid. Investigations commenced as to appropriate alternatives for Mark and it soon became clear that osseointegration surgery was a possibility. Unfortunately such treatment is not available in the UK and therefore we persuaded the Defendants that it was necessary for Mark to be treated in Sweden, the only European country offering such surgery. Over the course of his litigation Mark frequently travelled back and forth to Sweden for osseointegration surgery, whereby a titanium rod was implanted into his femur, and to which the prosthetic is attached, thereby removing the need for a conventional socket.

We were able to secure a favourable liability outcome for Mark, and following a settlement meeting in July 2013, Mark was awarded a gross award of over £3,000,000 in compensation. This money will help secure Mark's future, and in particular enable him to purchase a suitable property, state of the art prosthetics and ensure he has sufficient money to pay for his complex care needs.

Mark Bowman commented:

“I was delighted to be able to achieve this result for Mark. More importantly we were able to arrange for Mark to receive revolutionary treatment, in the form of osseointegration surgery, during the course of his case. As far as we are aware the team in Sweden had never received a patient with an on-going personal injury claim in the UK, and we hope that other victims of personal injuries will be able to benefit from the experience that we gained in Mark's case. I fully expect osseointegration to become more and more popular over the next five to ten years, and look forward to the day when it is available in the UK.”

# Victory for a patient of the Northern Devon Healthcare Trust



A former patient of Northern Devon Healthcare Trust has successfully settled a claim against North Devon District Hospital for a substantial sum, after

it failed to diagnose the developing Compartment Syndrome which led to the loss of his right leg below the knee.

Mr Appleby instructed Barrister Jonathan Zimmern of Fieldfisher to investigate a claim against North Devon Healthcare NHS Trust after he alleged that his doctors failed to properly diagnose and treat Compartment Syndrome in his leg which resulted from a serious road traffic accident he had been injured in the previous day. As a result of this delay, Mr Appleby ultimately required an amputation.

Mr Appleby had previously been awarded compensation for the original injuries sustained in the road traffic accident in a separate claim for damages. However, he alleged that the additional delay in treating those injuries caused catastrophic consequences.

Prior to his accident, Mr Appleby had been a fit and healthy young man who ran triathlons, climbed and was a Territorial Army reservist; He also ran his own successful business as an osteopath.

On 2 June 2005, Mr Appleby was involved in a road traffic accident on Exmoor and suffered substantial injuries to his right leg. He underwent an operation in the early hours of 3 June 2005. Throughout the following day, it was alleged that doctors at the North Devon Healthcare NHS Trust failed to diagnose Mr Appleby's developing Compartment Syndrome, which was causing a damaging build-up of pressure in his leg. The diagnosis was not made until early that evening when he was rushed to theatre for an emergency operation to release the pressure in the leg.

As a result of the alleged sub-standard treatment that Mr Appleby received from Northern Devon Healthcare Trust he



suffered four years of extreme pain and required over 15 surgical procedures, before finally undergoing a below knee amputation of his right leg in August 2009.

Jonathan Zimmern took over Mr Appleby's case from another firm of Solicitors. He instructed an orthopaedic expert to consider the case and argued on Mr Appleby's behalf that, but for the doctor's delay in diagnosing and subsequently treating the Compartment Syndrome, Mr Appleby would have required far fewer operations, he would have kept his leg and would have made a good recovery.

North Devon Healthcare NHS Trust argued that (i) Mr Appleby's claim should be struck out because it constituted a second claim for the same damage which he had already been compensated for following the road traffic accident; (ii) there was no negligent delay in treating the Compartment Syndrome and (iii) he would have chosen to have an amputation in any event because of the severity of the injuries caused by the original accident.

Jonathan successfully opposed the application to strike out the claim at a hearing in July 2012. There then followed significant further argument in relation to the orthopaedic evidence, before he was able to negotiate an out of court settlement for a substantial sum on 7 April 2014, just one week before a court trial was listed to begin.

Mr Appleby commented on the loss of nearly a decade of his life due to repeat operations, therapy and a prolonged legal battle:

“That was nine years where other men would be progressing their careers, getting married and having children, but I haven't been able to do that”

Jonathan noted:

“Mr Appleby's amputation had a devastating effect on his life and his career and I hope that the compensation he has received will help him to get the prosthetics and rehabilitation he needs to move forward.”

## Seven figure compensation secured after catastrophic motorcycle accident



Personal Injury Partner Mark Bowman was instructed by Martin following a motorcycle accident. Martin was initially referred to

panel solicitors through his motorcycle insurance policy, but came to Fieldfisher in March 2012.

On 10 May 2009, Martin was riding his motorcycle along the A41 Bicester Road, a safe distance behind a BMW car. On the other side of the road, the defendant was driving a Mercedes car. The Defendant driver fell asleep behind the wheel of his car and veered across the road, colliding with the BMW car in front of Martin. The impact, shunted the BMW backwards. Martin was unable to avoid the collision and suffered devastating injuries. He required an above the knee amputation to his right leg and suffered hypoxic brain injury following respiratory arrest on the side of the road, severe injury to his left knee (which subsequently required a total knee replacement), facial fractures, weakness to the left hand, burning hypersensitivity to the left arm, Peyronie's disease and urinary complications.

Despite the circumstances of the collision, the Defendants refused to

admit liability. They alleged that Martin was riding too close to the BMW and that he was not just partially, but totally, to blame for his injuries. At the time Fieldfisher were instructed, Martin had received interim payments totalling £255,000 three years. He was living in rented accommodation and had to move as his landlord would not extend his tenancy. He did not have sufficient money to purchase suitable accommodation. Notwithstanding the Defendants' stance, we were able to obtain an interim payment of £540,000 within 3 months of being instructed so that Martin could purchase suitable accommodation in which to live.

Following a settlement meeting during which the Defendant's legal team finally admitted full liability, Martin was awarded a seven-figure sum in compensation, including £50,000 per year for the rest of his life to cover the cost of requiring professional care at home. Martin's compensation means that he will be able to afford state of the art prostheses and water activity limbs. He will have sufficient funds to provide him with the private care regime that he needs and so that his loving wife can return to work.

“Mark, we really just want to say how brilliant you and Fieldfisher were in handling the case for us. We only moved to you guys less than a year before the case settled. I don't think the previous solicitors that our insurers appointed would have pushed quite as hard as you did to get us the settlement you achieved. They would certainly not have got the interim payments that you did, so we might have been forced to stay in another rented property somewhere with everything else going on still hanging over our heads. Thanks to you we were able to purchase a bungalow during the case, and it has made a huge difference to us. You and Marise put up with us so well. You were very patient with us and always explained things well and kept us up to date with what was going on. We were never out of the loop. We would, and have already, recommend you to friends and family if they ever need any legal help.”

## Road Traffic Accident leads to double leg amputation



Alexander (Sandy) was tragically injured in a road traffic accident while walking along his local high street.

He instructed Paul McNeil who successfully negotiated a seven-figure settlement for the husband and father of one. On the morning of Friday 15th October 2010, Sandy's birthday, he was walking along Silver Street in Lyme Regis when a 7.5 tonne Royal Mail lorry mounted the pavement outside the Mariners Hotel.

The Lorry propelled Sandy through the hotel window causing him to sustain serious, life threatening injuries. Royal Mail denied liability from the outset, arguing that the driver suffered from a sudden seizure, or black-out, which impaired his ability to control his vehicle immediately prior to the collision. If this argument was successful, Sandy would not have obtained compensation for his devastating injuries.

We obtained quality expert advice from a neurologist and accident reconstruction expert which demonstrated that the

driver was very unlikely to have suffered such a fit before the accident. Our case was that the fit occurred after the accident when the driver hit his head on the steering wheel.

The Claimant suffered extensive leg, head and shoulder injuries resulting in amputation of both legs. Sandy, was studying to be an accountant and was revising for his final exams. He hopes to complete his exams at his first available opportunity.

Sandy is now undergoing an intensive course of physiotherapy and will be able to move in to a purpose built bungalow, and afford a state-of-the-art prosthesis, thanks to the compensation Paul McNeil secured on his behalf.



At the end of the case Sandy commented:

"I was very happy to have someone of Paul's calibre on my side. He is a great professional and always kept me in the loop. He is very considerate and the wellbeing of his client is always his priority. He managed to secure a very good outcome on my behalf. I can now focus on my rehabilitation and getting the best help that I will need to rebuild my life."

## Fieldfisher instructed by motorcyclist who lost his right leg



Clive was left critically injured following his involvement in a road

traffic accident. The accident occurred while Clive was riding his motorcycle along the M11 on the London bound carriageway, when another motor vehicle slowed/stopped suddenly in front of him causing an accident involving our client. Unfortunately, the driver did not stop and the police have not been able to trace him/her.

Clive suffered life threatening injuries as a result of the accident. He had multiple organ failure and sustained an open fracture of his right tibia and fibula.

Efforts were made to save Clive's right leg, but unfortunately he developed an infection and so underwent an above knee amputation.

Fieldfisher were instructed to pursue Clive's personal injury claim. As the Defendant driver could not be traced, the claim is being pursued in accordance with the relevant Untraced Drivers' Agreement against the MIB.

Liability was agreed swiftly after Fieldfisher became involved and the required evidence is now being gathered so that Clive's claim can be valued.

There is a common misunderstanding that if a driver cannot be traced or does not have insurance a claim cannot be progressed. This is not the case. The

MIB is a government-run organisation to which all road traffic insurers must contribute. The MIB compensate people following accidents in these scenarios when they would otherwise be left without treatment and rehabilitation.



# Client travels to Australia for revolutionary osseointegration surgery following successful settlement



In December 2013, Mark Bowman was instructed by Viktorija in a motorcycle accident claim. On 09 September 2009, Viktorija was a pillion passenger on a motorbike. Unfortunately, the motorcyclist lost control of his motorbike, which hit the central reservation and Viktorija was thrown a significant distance from the motorbike and ended up in a ditch. As a result of this incident Viktorija suffered catastrophic injuries including a fracture to her left hip, left arm, left shoulder, a punctured lung and a fracture to her right sacro-iliac joint. Her most significant injury however, was an open fracture to her right femur.

Viktorija was taken to St Richard's Hospital where she required a transfemoral (above the knee) amputation to her right knee.

Viktorija initially instructed solicitors appointed via her legal expenses insurance policy. She only received limited interim payments and, at the time of Fieldfisher's instruction, was living in a second floor flat in Birmingham, without a lift.

Viktorija approached Mark Bowman at Fieldfisher, having heard about his expertise in cases involving osseointegration. Within a month of instructing Fieldfisher, we had secured a sizeable interim payment to pay for suitable rental bungalow accommodation for Viktorija in Kent and put in place a



rehab package initially involving a case manager, before introducing a support worker, physiotherapist and other treating professionals.

Throughout the 4 years prior to our instruction, Viktorija had struggled with socket based prostheses. She was still using a prosthesis supplied by the NHS and was unable to tolerate it for much of the day because of the amount of pain it caused. She was therefore interested in osseointegration surgery, whereby the need for a socket is removed as a result of a titanium rod being surgically inserted into the residual bone of the femur, with the prosthesis being attached directly to the rod, as opposed to a socket.

Viktorija extensively researched as to where she wanted to receive surgery but her previous solicitors were unable to secure sufficient funding for her to undergo such treatment.

In June 2014, only six months after instruction, we secured a substantial settlement to ensure that Viktorija has sufficient money to pay for her disability related needs, including specialist housing, care, occupational therapy and physiotherapy. Most importantly, she can now undergo osseointegration surgery. Whereas she had initially considered having surgery in Sweden, Viktorija researched Professor Munjed Al Muderis, a specialist surgeon in Australia.

Professor Al Muderis has adapted the technique used in Sweden to ensure faster rehabilitation for patients, and Viktorija had her surgery under his care in early August 2014.

Viktorija has had amazing progress since her surgery and is now able to enjoy life again.

At the end of the case, Viktorija commented:

“Mark was able to settle my case in very short time, something that my previous solicitors weren't able to do. I was very happy to meet Mark and see how professional he was and I'm very grateful to both him and Fieldfisher for their professionalism and organised treatment of my case.

Mark Bowman is the most amazing person I've ever met. He's a very good man who knows his job, understands his clients, has good manners, is very friendly and is super helpful and hard working.

I particularly liked the way that Mark and Fieldfisher work as a team and that they love what they do. I will always highly recommend Fieldfisher because they changed my life. They made the impossible possible.

Thanks to Mark for the care, respect and peace of mind he gave me while fighting my case”.

# Negligent surgery leads to amputation of fingers



In early 2012 Zelda Walker had surgery to insert a feeding tube; it's a routine operation that is done many times a week in hospitals across the UK and ordinarily carries at worst a risk of mild infection. However in Zelda's case The Whittington Hospital NHS Trust, where the surgeries took place, mistakenly inserted the wrong-sized tube – a much thicker PEG tube designed to go through the tougher stomach wall, rather than the finer jejunostomy tube, which sits in the more delicate bowel.

Not only did they use the wrong sized tube, they inserted it as though they were inserting a jejunostomy as a larger tube was inserted into the bowel, creating a hole in the bowel that they could not close properly. As a result she developed peritonitis (where the contents of the bowel leak into the abdominal cavity). That leak triggered inflammation of the abdominal cavity and infected it. Because the Trust also didn't recognise peritonitis was developing for over 24 hours, she went into septic shock, causing several of her organs to fail, including her kidneys. By the time she was taken back into theatre for life saving treatment she was critically ill.

Somehow Mrs Walker survived the first 24 hours, but then developed gangrene

in her fingers, and eventually, because her fingers could not be saved, had to have amputated parts of her fingers on both hands.

She instructed Fieldfisher to investigate a claim for her, and after exploring the case with a Surgical expert we put allegations of negligence to the Defendant, including an allegation that Zelda could not have consented to the surgery, because the surgical procedure she was consented to was not the one that actually took place. After a contested court hearing it was accepted that judgment should be entered at court for her, and she should receive a modest interim payment, which is funding some ongoing care for her whilst we explore the value of her claim.

We are very hopeful that she might be able to benefit from the use of prosthetic fingers, and various specialist aids and equipment, and also benefit from adapting her home, to give her as much independence in her daily life as possible. Currently her injuries mean she cannot easily pick up a cup of tea, use a tablet or smart phone, nor turn a door handle. Prosthetics and specialist equipment may be used to find a way around her disabilities, and the damages we are seeking for her would be claimed to allow the purchase of such equipment.



Image Credit - Nigel Howard

Zelda is represented by Caron Heyes, a Senior Associate in the team and Caron is working with Zelda and our team of experts in Upper Limb Surgery, Prosthetics, Occupational Therapy and Hand Therapy, Pain Management and Psychology to work towards an appropriate quantum settlement for her.

Caron Heyes, said :

“Mrs Walker has been left with serious physical and psychological problems, needing to take anti-depressants and with recurring problems going out. She currently finds it impossible to manage normal everyday activities such as making a cup of tea or writing an email.

We're waiting to hear from the prosthetic surgeon what he can design for Mrs Walker. I'm delighted that this interim payment may give her some respite from her ordeal and allow her to regain even a modicum of normality in her life after so many years of distress and discomfort.

I'm determined that full settlement be reached to further alleviate Mrs Walker's distress,”

# Meet the team

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**Paul McNeil**  
Partner

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t: 020 7861 4019

Paul heads the personal injury and medical negligence department and has specialised in serious injury claims for over 25 years. Paul has acted on behalf of victims involved in the Clapham, South Hall, Ladbroke Grove and Potters Bar rail accidents.



**Peter Williams**  
Partner

e: peter.williams@fieldfisher.com  
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Peter has specialised in asbestos cases, accident at work and road traffic accident claims for 20 years. He gives annual talks to solicitors on asbestos claims for Central Law Training. He is a member of the Law Society Personal Injury Panel.



**Jill Greenfield**  
Partner

e: jill.greenfield@fieldfisher.com  
t: 020 7861 4557

Jill has 20 years' experience acting for claimants and is head of our brain injury and spinal injury unit. Jill is recognised by Headway (the brain injury association), SIA (Spinal Injuries Association) and various legal directories as a leading lawyer.



**Andrew Morgan**  
Partner

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t: 020 7861 4036

Andrew has specialised in cases involving industrial diseases, including asbestos diseases, since 1993. He is a past Coordinator of the Occupational Health Group of the Association of Personal Injury Lawyers (APIL) and is an APIL Fellow.



**Mark Bowman**  
Partner

e: mark.bowman@fieldfisher.com  
t: 020 7861 4043

Mark pursues serious injury cases on behalf of victims of accidents and medical negligence. a member of the Law Society Clinical Negligence Panel, Mark has over 12 years experience representing victims of medical negligence and personal injury.



**Iona Meeres-Young**  
Partner

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t: 020 7861 4571

Iona is a partner in the medical negligence team at Fieldfisher. She is on the specialist Law Society Clinical Negligence Panel, a member of AvMA and is an accredited expert in acting for the victims of medical accidents.



**Jonathan Zimmern**  
Senior Associate

e: jonathan.zimmern@fieldfisher.com  
t: 020 7861 4218

A barrister, Jonathan acts for those injured through negligence or accidents. Jonathan is a member of the Association of Personal Injury Lawyers (APIL) and a volunteer on the AvMA helpline.



**Caron Heyes**  
Senior Associate

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t: 020 7861 4062

Caron pursues medical negligence claims across a broad spectrum of claim types, including obstetrics gynaecology and neonatology, with a particular expertise in complex neonatal, obstetric, surgical mismanagement and accident claims.



**Dushal Mehta**  
Senior Associate

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t: 020 7861 4033

Dushal has specialised in asbestos disease cases, and particularly mesothelioma claims, for a number of years. He joined the firm in 2009 and is a member of the Association of Personal Injury Lawyers.



**Jennifer Buchanan**  
Associate

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t: 020 7861 4530

Jenny qualified into our personal injury and medical negligence department having trained at the firm. Jenny has a varied caseload and also assists Jill Greenfield with complex and high value cases.

Caring for our clients

Commitment to our cases

Cutting edge expertise

# Freephone

## 0800 358 3848

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## Useful organisations

### Limbless Association

Tel: 01245 216670

Email: [enquiries@limbless-association.org](mailto:enquiries@limbless-association.org)

Website: [www.limbless-association.org](http://www.limbless-association.org)

### Limb Care

Tel: 0800 052 1174

Email: [info@limbcare.org](mailto:info@limbcare.org)

Website: [www.limbcare.org](http://www.limbcare.org)

### Limb Power

Website: [www.limbpower.com](http://www.limbpower.com)

