



## Michael Redfern QC

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Year of Silk: 1993

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“Prominent figure among members of the Claimant Bar in the North. He boasts many years of experience acting in brain injury cases, including cerebral palsy claims.

“An excellent advocate who ably puts the clients at ease whilst maintaining a strong tactical focus.” **Chambers UK Bar 2021: Senior Statespeople**

“Recommended Expert” **Legal 500 2022**

## Personal Profile

Michael specialises in clinical negligence (cerebral palsy in particular), personal injury (catastrophic and brain injury in particular), employers' liability and road traffic cases.

He has had considerable success in subtle brain injury cases where, at first glance, the claimant appears normal but on detailed neuropsychological assessment is in fact seriously damaged.

Michael undertakes a regular amount of pro-bono work.

Michael was awarded the Lifetime Achievement Award from Manchester Law Society in 2015.

Michael recently appeared on Sky News and the Shelagh Fogarty show on LBC, discussing the case of David Fuller.

## Appointments

- Chairman – Royal Liverpool Children's Inquiry (Alder Hey) 2000

- Chairman – Redfern Inquiry into human tissue analysis in UK nuclear facilities 2007 – 2010
- Leader of the Northern Circuit – 1 January 2005 to 31 December 2007
- Recorder

## EXPERTISE

### Personal Injury

### Legal Directory Recommendations

*“It is always reassuring to have Mr Redfern on your side in a case. He has the ability to see a way through the medical evidence to achieve success where other barristers would fail or give up. This appears to come from a strong belief in access to justice – he never seems to tire in his desire to achieve this.”* **Legal 500 2021**

*“Very experienced in cerebral palsy and subtle brain injury cases.”* **Legal 500 2019**

*“Prominent figure among members of the claimant Bar in the North. He boasts many years of experience acting in brain injury cases, including cerebral palsy claims.”*

*Strengths: “He is an excellent advocate and has a very hands-on approach and a lovely way with clients. He really has a genuine concern for them.”* **Chambers & Partners 2019**

*“Has a strong focus on brain injury cases including cerebral palsy claims resulting from obstetric negligence.”*

*Strengths: “Has a commanding presence and an innate ability to home in on crucial and complex issues. He’s someone you would want on your side.”* **Chambers & Partners 2018**

*“He has expertise in cases involving subtle brain injuries.”* **Legal 500 2017**

*“Maintains a strong reputation as a specialist in catastrophic injury. He is known for his experience acting in cases concerning severe brain injury, which is bolstered by his additional expertise in clinical negligence matters”* **Chambers & Partners 2017**

*“A vastly experienced barrister acclaimed for his work on cases involving catastrophic brain injury, including claims involving RTAs and employers’ liability issues. Commentators value his negotiation skills and tactical nous.”*

*Strengths: “He is sharp as the sharpest of knives; incredibly experienced and thoughtful.”* **Chambers & Partners 2016**

*“He has particular expertise in brain injury cases where neuropsychological defects are not immediately obvious.”* **Legal 500 2015**

*“Highly experienced advocate with wide ranging knowledge of a variety of catastrophic injury claims, including brain injury, employer’s liability and group actions.”*

*“He has an exceptional legal mind; his advice is always thoroughly thought out.” “He is dogged, but imaginative in terms of spotting an angle on a case and pursuing it successfully.”* **Chambers & Partners 2015**

## Important Cases

### **KB by his son and litigation friend NB -v- RH: 26 June 2018**

Claimant aged 69 riding bicycle along main road when Defendant overtook him and then turned left across his path precipitating a collision in which the Claimant suffered brain injury. Collision denied by Defendant. Claimant not wearing helmet. Contested expert evidence on contributory negligence for not wearing helmet. RTA experts as to whether or not the Defendant was negligent and that her negligence caused the Claimant’s injuries. Claimant 73 at date of settlement. Court approved resolution of the claim on the basis that the Claimant recover 87.5% of the full value of his claim and that settlement in the sum of £1 million was worthy of approval.

### **Stark v Post Office (2000) PIQR 105CA**

Provision and Use of Work Equipment Regulations 1992 impose strict duty to ensure work equipment is suitable for purpose for which used and maintained in efficient state and good repair.

### **Pickford v ICI plc (1998) 3All ER 462 HL**

Employer’s liability – duty to take care. Employee developed symptoms of RSI allegedly caused by excessive typing. Judge failed to find condition organic in origin. Judge found employers not under duty to instruct employee to take rest breaks. Whether Court of Appeal entitled to reverse judge on burden of proof and findings of fact.

### **Johnson c Coventry Churchill International Ltd (1992) 3AllER 14**

Conflict of laws – tort – actionability in England of wrong committed in West Germany. Whether English company employer at material time was in breach of duty to provide safe systems of work. Whether English law should be applied to issues between parties because of significant relationship with England.

### **Robertson v Ridley (1989) 1. WLR 872 CA**

Whether members of the committee of a private members’ club owe duty of care to members of the club.

## Professional Association Memberships

- Personal Injury Bar Association

# Clinical Negligence

## Legal directory recommendations

*“Experienced leader, whose input is readily apparent. Not frightened to take on established views.”*

**Legal 500 2021**

Strengths: *“He has always been one of the big names in the field.”* **Chambers UK Bar 2020: Senior Statespeople**

*“Has a strong focus on brain injury cases including cerebral palsy claims resulting from obstetric negligence”.*

Strengths: *“He provides reassurance to clients where it is obviously technically very complicated and a stressful time for them”.* *“He brings a lot of experience to the table”.* **Chambers & Partners 2017**

*“Possesses a broad knowledge of clinical negligence matters, personal injury litigation and professional negligence, and is admired for his wealth of expertise, not least in complex cerebral palsy cases, where he is regarded as a specialist.*

Strengths: *“He is a master tactician and is excellent with clients.”* **Chambers & Partners 2016**

*“Has focussed his practice on cerebral palsy cases. He has a mixed practice that includes personal injury cases, and often takes on pro-bono work.”*

*“He was fantastic – he is vastly experienced, thinks fast on his feet, and is exactly what you’re looking for in an advocate.”* **Chambers & Partners 2015**

## Important Cases and Inquiries

**OTI by mother and litigation friend OI -v- Guy’s & St Thomas’ NHS Foundation Trust: 23 July 2018**

8-year-old Claimant underwent repair of partial atrioventricular septal defect in 2008. Watershed infarction on post-surgery imaging in keeping with hypotension and low haemoglobin. Previously diagnosed with benign partial epilepsy of childhood. Liability strenuously denied. Defendant contended Claimant had severe congenital cardiac abnormality and was overtaken by the inherent risks of major open heart surgery which had been consented. Claimant suffered severe brain damage, resulting in impaired cognitive and academic ability leaving her with learning difficulties, behavioural and emotional problems. Lacked capacity. Defendant also contended that neurological damage was an ever present risk of cardiac surgery which in this case overtook the Claimant without negligence. Snagging during cardiopulmonary by-pass was non-negligent and a possible cause of damage. Settlement on the basis that the Claimant recover 65% of the full value of her claim to be assessed approved by the Court.

**PD by her mother and litigation friend HD -v- Wirral University Teaching Hospital NHS Foundation Trust: 11 June 2018**

At birth the Claimant suffered focal infarct in the left middle cerebral artery. Left with right spastic

hemiplegic cerebral palsy, microcephaly learning difficulties, impaired gross motor skills, behavioural problems and impaired intellectual functioning. Claimant now 20 and attending university. Issue in the case was whether the Claimant should have been delivered 10 days earlier than she was in fact and earlier delivery would have avoided the damage. Case heavily contested on liability. The Court approved settlement on the basis that the Claimant recovers 50% of the full value of her claim. The Court also approved liability settlement of the claim on a lump sum basis using the -0.75% discount rate in the sum of £4,950,000.

#### **LMS by mother and litigation friend ED-v-East Lancashire Hospitals NHS Trust: 16 March 2017**

Claimant suffered trauma at delivery with hydrocephalus, left facial palsy, left hemiplegia and squint, global development delay, organic brain damage. Problems with attention, concentration, memory and comprehension. Her gait is unsteady and she tends to trip and fall. No perception of danger and lacks capacity. Claimant aged 11 at settlement.

First case where new Lord Chancellor's discount rate of -0.75% applied following settlement at an earlier joint settlement meeting. New multipliers applied. Lump sum increased from £1,320,575 to £2,122,398. The new discount rate did not affect Periodical Payment Orders of £50,000 to age 19 and £73,500 p.a. from 19. Capitalising the Periodical Payments and adding it to the lump sum, the value of the award was £9,296,673 which represented 50% of the full value of the claim. Settlement on these terms was approved.

#### **CH being a protected party by her mother and litigation friend DH -v- DR JB: 16 December 2016**

8-month-old infant developed pneumococcal meningitis and septicaemia. Alleged delay in diagnosis and treatment. Experts in paediatric infectious diseases, paediatrics and clinical microbiologists on both sides. Pneumococcal meningitis has high mortality and morbidity but is extremely uncommon. Early symptoms of meningitis are often indistinguishable from those of respiratory or systemic viral infection. Prodromal symptoms may be evident for several days before symptoms of meningitis manifest themselves. Heavily contested case. Settlement in sum of £1 million approved.

#### **2007-2010**

##### **Chairman – Redfern Inquiry into human tissue analysis in UK nuclear facilities.**

Report – 16 November 2010 (HC571-1 and available at [www.official-documents.gov.uk](http://www.official-documents.gov.uk))

#### **Lewis v Secretary of State for Health and Another (2008) LS Law Med. 559**

Confidential patient information. Case concerned the issue of whether a doctor's duty of confidentiality survives a patient's death and the Court's jurisdiction to authorise disclosure of confidential patient information in the public interest.

#### **Aintree Hospitals NHS Trust v Angelique Sutcliffe (2008) LS Law Medical 230 CA**

Spinal anaesthetic contaminated with cleaning agent (chlorhexidine) leading to spinal arachnoiditis with severe neurological and physical consequences.

#### **Chelsea Kennedy v Liverpool Womens Hospitals NHS Trust (2004)**

Cerebral palsy trial where Defendant's expert gynaecological evidence failed to satisfy requirements of Bolam or Bolitho defences.

**2000 – 2001**

**Chairman – Royal Liverpool Children's Inquiry (Alder Hey)**

Report – 30 January 2001 (HC12-11)

**Brown v Lewisham and North Southwark Health Authority (1999) Lloyds Reports Medical 110 CA**

Medical negligence, including causation, foreseeability, remoteness. Whether causation of injury should be analysed by reference to a breach of the duty owed.

**Wiszniewski v Central Manchester Health Authority (1998) Lloyds Law Reports Medical 223 CA**

Whether doctor was negligent in failing to attend and examine patient, consider CTG trace before deciding what to do, or relying upon a midwife. Doctor's failure to attend trial – whether this leads to an inference that if he had attended and examined the patient he would have ruptured membranes and proceeded to caesarean section and would have avoided cerebral palsy.

**Stephens v Doncaster Health Authority (1996) Med. LR 357**

Cerebral Palsy – Plaintiff suffering from quadriplegia and athetosis and in need of adult care for all his needs throughout life – issues as to appropriate multiplier damages and future care needs.

## Professional Association Memberships

- Northern Circuit Medico-Legal Association

## Catastrophic Injury

## Legal Directory Recommendations

“Highly experienced in catastrophic injury cases.” – **Legal 500 2016**

## Recent cases of note

**Stuart Boden -v- Shaun Gater: 13 August 2018**

Claimant 62 at date of accident on 15 August 2014. Suffered severe brain injury. Lived in tiny rented accommodation with wife pre-accident. Following discharge from hospital and to date resided in care homes publically funded. Concatenation of comorbidity. Had been wife's carer pre-accident. **Lowe-v-Guise [2001] EWCA Civ. 197** claim. Schedule of Loss with normal life expectation £6 million. Defendant's Counterschedule £600,000. Life expectation heavily contested. Defendant contended maximum of a further 10 years. Claimant concluded life expectancy shortened by 10 years.

Discount rate of -0.75% applied. Care and accommodation claims denied on basis Claimant would continue to reside in care homes. Claimant's life imperilled by asthma, recurring pneumonia and worsening swallow difficulties. Claimant and wife desperate to live together again. Lump sum settlement in the sum of £2.25 million approved.

### **ASN by sister and litigation friend AK -v- PD Defendant: 18 June 2017**

Road traffic accident 13 February 2015 involving Claimant (Polish national) 45 years of age intending to spend the rest of his life in England working in waste recycling, welding and as a banksman. Suffered severe brain injury and polytrauma with subdural haematoma, subarachnoid haemorrhage, brain contusions and complex skull and facial fractures. Hydrocephalus, lung contusions, rib fractures. Executive and cognitive dysfunction, rehabilitated in Poland to considerable effect. Intends to remain in Poland for rest of life where sister acts as his guardian. Settlement approved in the sum of £3 million. Money transferred to Poland. Polish Family Court appointed Claimant's sister as guardian and now discharges similar function to Court of Protection in UK. Damages transferred to Poland in late 2017. Two computerised designed and generated prefabricated bungalows built exclusively for the needs of the Claimant and his family, built within six months of settlement on a site approved as suitable. The outcome is outstanding and caters for all the Claimant's reasonable needs for the rest of his life in Poland.

## **ADR and Mediation**

Michael Redfern QC qualified as a mediator in 2015 and is accustomed to mediating personal injury and clinical negligence cases as well as workplace disputes. He was the keynote speaker at a leading mediation conference, *Healthcare Disputes: Is Mediation the best Medicine*, held at the University of Central Lancashire in 2018.