



ON THE RECORD

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IN THIS ISSUE

New rights for unmarried couples

Support for Cauda Equina Syndrome Day

Devastation of maternity failures

jmw

in
your
corner

Bereavement Compensation: New Rights for Unmarried Couples



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Over the last 10 years, the number of couples choosing to live together without marrying has grown significantly. In 2019, of 19.2 million families in the UK, 3.5 million involved couples who were 'cohabiting', according to the Office for National Statistics.

Despite this, for many years the law has reserved a key right known as a 'bereavement award' to those who were married or in a civil partnership. However, on 6 October 2020, a long-awaited change to the law came into force to recognise loss affecting unmarried couples.

What is a bereavement award?

For deaths caused by medical negligence and other fatal accidents, the law recognises the loss of a loved one with a type of compensation known as a 'bereavement award'.

Currently this is fixed at £15,120 and is in addition to any compensation awarded to help to cover the financial contribution the deceased spouse made to responsibilities, such as mortgages.

Limiting the bereavement award to only husbands, wives or civil partners has for years caused injustice to those in long-term, meaningful partnerships who were unmarried.

Jakki Smith and John Bullock were one of these couples, having been together for 16 years. In 2011 Jakki, an NHS worker from Chorley, lost John after an infection he suffered was missed by doctors. When Jakki learned she was not entitled to the bereavement award, she wanted to help unmarried couples in the future who found themselves in the same circumstances. Jakki and her lawyers launched a legal battle arguing that the law was in breach of her human rights.

In 2017 Jakki won this fight. The Ministry of Justice has now confirmed that from 6 October 2020, cohabiting partners will be entitled to the bereavement award as long as the couple lived together for at least two years prior to the death.

Of course, no amount of money can ever compensate for such loss. My clients often say that the main purpose of bringing their legal claim is not financial compensation. They want the loss of life of the person they loved to be recognised and acknowledged by those responsible. I hope that this long overdue change in the law will provide much deserved recognition of the loss of meaningful relationships between unmarried couples.

During the full national lockdown several members of our team took part in the Superhero Tri At Home Superheroes event and raised £785 for [Cerebral Palsy Sport](#).

The team of six aimed to complete at least 100 kilometres by walking, cycling and jogging during the four week period. However, they managed to completely smash this target covering more than 170 kilometres between them.

Well done to Ellen Driscoll, Kelly Hindle, Kathryn Dyson, Hannah Madkour, Steven Ferrari and Adam Hindle.

Thank you also to all who sponsored them and supported the work of Cerebral Palsy Sport in helping people who live with this neurological condition to participate in sport.

Support for Cauda Equina Syndrome Day

A JMW client has spoken of the devastating consequences of a serious spinal condition to help others get diagnosed before it's too late and support the first Cauda Equina Syndrome Day.

Claire Rawlings, 47, of Darlington, Co Durham, was forced to give up her job as a health visitor, has chronic severe pain and very poor mobility due to cauda equina syndrome. She is cared for by her husband Ian, who has had to give up his job as a chef to do so, as well as caring for the couple's daughter Gabrielle, eight.

Claire relies on crutches indoors and a wheelchair outdoors and also has significant problems with her bladder and bowel. She relies on medical aids to manage this, which has had a further severe effect on her quality of life.

Claire, who also has two adult children, has shared her story to raise awareness of the 'red flags' of cauda equina syndrome (CES) for Cauda Equina Day, which was organised by [The Cauda Equina Champions Charity](#) and took place for the first time on 1 October.

When Claire first developed symptoms, including severe back pain, an episode of bladder incontinence and loss of feeling around her back passage, a healthcare worker she saw in February 2016 failed to appreciate these were symptoms of CES and send her straight to A&E for an urgent scan and surgery. If they had, Claire would have been operated on on the following day. However, Claire did not receive surgery in time to prevent permanent damage.

Claire commented: "Cauda equina syndrome has had a devastating impact on my life and can happen to anyone. I am a volunteer for the Cauda Equina Champions Charity, providing support to other sufferers, and it's shocking the number of people who have gone through what I did. There needs to be more awareness of the red flags so that medical professionals appreciate this is an emergency situation."

Eddie Jones, head of our team, is representing Claire. He commented: "Claire's case is extremely tragic but sadly not isolated and at JMW we are contacted on a weekly basis by patients who say they have faced similar delayed treatment and permanent injury. Whole lives are being ruined when in most cases this could be avoided with better care."

CES red flags:

- Leg pain/weakness or altered sensation such as pins and needles or electric shock sensation
- Altered bladder function, including not feeling the urge to go, altered sensation when passing urine, or incontinence.
- Bowel incontinence or reduced sensation
- Change in sensation in the groin or saddle area e.g. numbness when wiping or pins and needles
- Altered sexual function

Patients have the best chance of recovery if they receive surgery within 24 hours of the onset of red flags. The longer they are left, the poorer their outcome.



We were delighted to see our charity partner Rainbow Hub reopen its doors in September to the children with complex needs it supports.

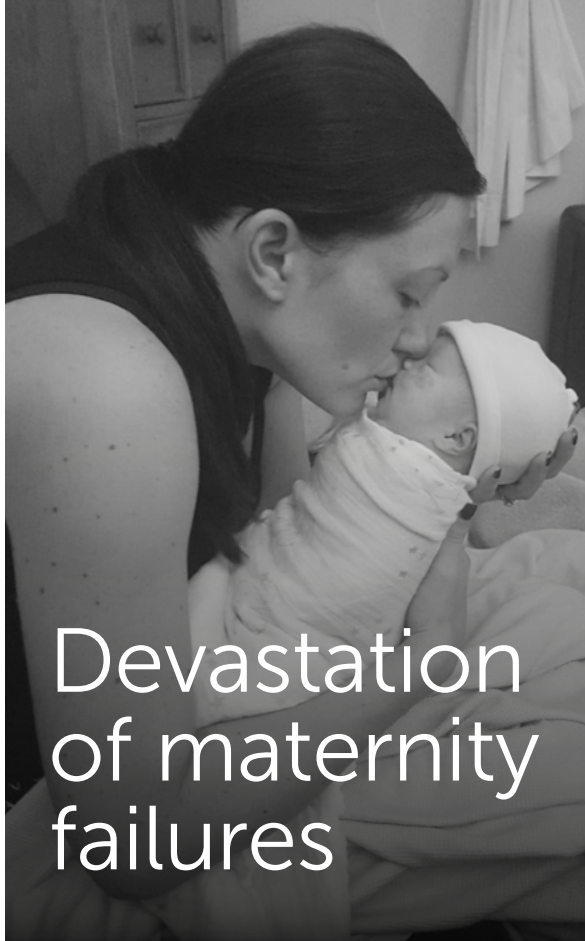
Our team has supported Rainbow Hub, which provides conductive education and additional vital services to children with cerebral palsy and other neurological conditions, for more than a decade.

When its doors closed in March due to Covid-19, and many of the children began shielding due to being high-risk, it was an extremely challenging

time for families who see Rainbow Hub as a lifeline. Staff provided fantastic online sessions but nothing could replace coming to the site where they develop mobility and communication skills.

The whole team at Rainbow Hub, which is based in Ormskirk, Lancashire, has worked extremely hard to ensure the site is Covid safe for families and is following all the relevant guidelines.

Granada Reports filmed some of the children enjoying their first session back and spoke to parents about what Rainbow Hub means to them. You can watch the clip on the [Granada Reports website](#).



Devastation of maternity failures

Cases involving injuries to mothers and babies on maternity wards are some of the most common and tragic that we deal with in the JMW clinical negligence team.

We are currently acting for many families who have lost babies in the most distressing of circumstances, who need help in finding answers and challenging the appalling standard of care they have faced.

A common issue that arises in the cases we investigate, is that parents are brushed off with claims that there was nothing could have been done differently and their loss was 'just one of those things'. In some cases there has even been the suggestion that a lack of co-operation by the mother contributed to the tragic outcome when they had not been made aware that their baby's life was in danger. This has compounded their distress in their darkest hour.

It is this defensive attitude, and failure to swiftly act on issues with care, that raises the potential for other families to suffer a similar devastating and avoidable loss. It is what drives families to take legal action in the first place.

Twin delivery failures

Parents we recently represented who were affected by this issue are Nicky and Colin Baines, of Hale. The couple lost their twin baby girl Eleanor after Nicky was left with midwives at Wythenshawe Hospital who had never delivered twins before. The midwives did not monitor Eleanor after her brother Lucas was born, and did not call for a doctor when they could not find her heartbeat.

After a case was brought against the hospital trust by Jodie Miller, a specialist solicitor in our team, the trust admitted the failures and finally officially apologised to Nicky and Colin.

The death of a baby leaves deep emotional scars. As Nicky explains: "The loss of Eleanor has had a lasting impact on our entire family as we struggle to come to terms with what we believe to be an avoidable tragedy. Our experience has opened our eyes to truly worrying statistics in the UK around standards of care during labour, and so many deaths that could have been prevented. We need to do better, and this can only happen if staff start to be more open and honest about their mistakes and are willing to learn from them."

Jodie added: "Aside from the admitted failings, there were numerous other issues that occurred that contributed to this traumatic and life-changing episode and unfortunately Nicky and Colin do not feel they were taken seriously enough by the hospital. This led to them taking the step of legal action in the first place."

This case is one of many at JMW where similar failures have occurred as a result of staff not following guidelines. Staff must be trained to understand the risks they are taking when they deviate from protocol. Reinstating the axed maternity safety training fund is one way this could be achieved.

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