

# Brain injury caused by clinical negligence



## What is clinical negligence?

Clinical negligence can result from any healthcare professional doing the wrong thing, or failing to do what he or she should have done. For example, a brain injury might have occurred if a patient was deprived of oxygen, or if a patient's symptoms weren't diagnosed quickly enough; there could have been clinical negligence in both these cases.

Medical negligence is an alternative term more correctly used to describe an error or omission made by a doctor.

## What are hypoxia and anoxia?

- **Hypoxic brain damage** occurs when the brain receives only a partial supply of the oxygen it requires to function normally.
- **Anoxic brain injury** occurs when the supply of oxygen to the brain is halted completely. Without an adequate supply of oxygen, irreversible brain damage can occur rapidly.

## Examples of brain injuries that may result from clinical negligence

### Birth asphyxiation / Cerebral Palsy

Cerebral Palsy (CP) is a neurological disorder caused by a non-progressive brain injury. It can be caused if a baby is starved of oxygen during birth. It affects body movement, muscle control, co-ordination and tone, reflex, posture and balance. The most common severe motor disability of childhood, CP can affect fine and gross motor skills and often appears with other disabling conditions such as epilepsy, cognitive, visual and hearing impairments.

### Brain injury caused during surgery

Whilst all surgery carries a degree of risk, 'routine' head surgery performed incompetently could lead to catastrophic brain damage.

Other surgery can also lead to brain damage if, for example, complications during general anaesthesia result in restricting oxygen or lead to cardiac or respiratory arrest, or if the patient's blood pressure is extremely low following blood loss during a surgical procedure.

### Misdiagnosis or delayed treatment

Without urgent treatment to prevent complications, some conditions can lead to further injuries, including brain injury. Failing to diagnose hydrocephalus (raised intracranial pressure), for example, can result in brain injury, personality and behaviour changes, and memory loss. Similarly a misdiagnosis or untreated infection, brain tumour or haemorrhage, stroke or meningitis can lead to permanent brain damage.

## **Overdose of medication**

The brain can swell and suffer permanent damage if certain medications are prescribed in doses that are too high.

### **Summary**

Not all injuries suffered in a hospital or care setting resulting from the treatment of a medical condition are caused by clinical negligence, and trying to determine whether or not negligence has occurred isn't straightforward.

Most people who suffer a brain injury in a hospital were there because they required treatment for another pre-existing condition. Whether the brain injury was caused by an underlying condition or a particular course (or lack) of treatment might not be obvious, and it's often very difficult to identify the difference that an alternative approach or treatment might have made to the outcome.

For there to be a claim, it's necessary to prove that:

- treatment fell below an acceptable level of competence; and
- the patient has suffered an injury; and
- it is more likely than not that the injury would have been avoided, or less severe, with proper treatment

See Brain Injury Group FastFacts 010 — Clinical negligence claims | frequently asked questions for more information.