

JAMES BENTLEY

CALL: 2012

Email: james.bentley@guildhallchambers.co.uk

Tel: 0117 930 9000



James is a specialist personal injury and clinical negligence barrister. He appears regularly for both claimants and defendants in a wide range of hearings such as: fast track and multi-track trials, CCMCs, interlocutory applications, inquests and appeals.

He is happy to consider any case with representation under a CFA and will not levy any fee if prospects are insufficient.

James is flexible, approachable and aims to turn around any papers within 14 days. He is happy to talk matters through informally on the telephone prior to instruction if needs be.

PRACTICE AREAS

- Personal Injury
- Clinical Negligence
- Costs and Litigation Funding

PERSONAL INJURY

James has a busy personal injury practice, and is often in court up to four to five times per week. He is instructed by both claimants and defendants in a range of fast-track and multi-track matters, and has experience in cases involving:

- Road traffic accidents
- Employers' liability
- Fatal accidents
- Public liability
- Highways Act claims
- Secondary victim claims
- Pain syndromes
- Accidents abroad

The value of James's caseload varies, but he is instructed in a number of high five and six-figure claims. For example, he recently settled a personal injury matter at a JSM where the claim was pleaded in excess of £1m. All issues were in dispute.

He is also used to dealing with applications concerned with the interpretation of the fixed costs and QOCS provisions. See for example *Magon v RSA*, where James acted for the successful claimant/appellant in a case dealing with QOCS and discontinuance. He has given multiple talks on the same topic, and is well versed in arguing over the exceptions to the general rule.

James is also often instructed in cases involving an element of fraud and/or dishonesty and has obtained findings of the same for defendants on several occasions. He has written a book titled: '*A practical guide to QOCS and Fundamental Dishonesty*,' and which can be purchased at: <http://www.lawbriefpublishing.com/product/qocsandfundamentaldishonesty/>

CLINICAL NEGLIGENCE

James has built up a successful clinical negligence practice that covers a wide range of issues. He is currently a co-author for the revised Clinical Negligence chapter in the Butterworths Personal Injury Litigation Service manual (publication date TBC).

Examples of recent work includes cases involving:

- Dental negligence resulting in fibromyalgia;
- The misapplication of radiotherapy;
- Failure to diagnose an ovarian cyst;
- Failure to provide adequate nursing care (resulting in the death of the patient);
- Surgical negligence involving a failed ileostomy;
- Pressure injuries sustained whilst in hospital and/or a care home.

Most of James' clinical negligence work involves five and six figure claims where at least three or more experts have been instructed for each side. He recently settled a case pleaded in excess of £400,000 at a JSM where there was dispute between the parties' psychiatric and rheumatology experts as to the nature (and existence) of the claimant's pain condition.

James has also been instructed as a junior or second junior in seven and eight figure cases involving injuries at birth.

He is happy to appear at inquests where there are some prospects of success.

COSTS AND LITIGATION FUNDING

James has been instructed in numerous CCMCs (for claimants and defendants), interim payment applications, provisional and detailed assessments (including in the SCCO). His busy personal injury and clinical negligence practice means that he is also regularly instructed to deal with the more discreet points of costs law that involve the fixed costs provisions, the QOCS provisions, and Part 36.

Recent examples of such work include cases concerning:

- The application of QOCS where a claim was discontinued, but would have been struck out (*see Magon v RSA*);
- The application of indemnity costs for the late acceptance of a Part 36 offer;
- The applicability of QOCS in a credit hire/personal injury case and the availability of non-party costs orders against the credit hire company;
- Whether QOCS applies to counter-claiming defendants;
- The circumstances under which a Tomlin Order should be varied to reflect the provisions of Part 36 despite the wording of the said order indicating otherwise.

James frequently delivers training for solicitors and costs firms, and has been invited to speak on costs at national events such as the 2018 conference for the Society of Clinical Injury Lawyers. He also regularly writes about costs related matters for various websites, and has recently written a book on QOCS and fundamental dishonesty, titled: '*A practical guide to QOCS and Fundamental Dishonesty*', and which can be purchased [here](#).

MEMBERSHIPS:

- PIBA
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EDUCATION:

- BPTC, Kaplan Law School
 - LLM, University College London
 - LLB Hons, University of Exeter
 - Hardwicke Entrance Award, Lincoln's Inn
 - Sir Thomas More Award, Lincoln's Inn
 - Walter Wigglesworth Scholarship, Lincoln's Inn
 - Kaplan Law School Advocacy Scholarship
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RECENT NEWS

- Book Launch: 'A Practical Guide to QOCS and Fundamental Dishonesty' by James Bentley
- James Bentley discusses "Pleading fundamental dishonesty"
- Personal Injury Case Updates - December 2015

Guildhall Chambers, 23 Broad Street, Bristol BS1 2HG Tel: 0117 930 9000 DX: 7823 Bristol

james.bentley@guildhallchambers.co.uk | www.guildhallchambers.co.uk