



UK SPECIALITY

 **GALLAGHER BASSETT**

SENSITIVE CLAIMS & SAFEGUARDING TEAM

The GB Speciality team provide their clients with a unique holistic and global legal offering which encompasses the provision of safeguarding and crisis management advice. We are proud to be passionate about the importance of improving safeguarding policies and protocols within organisations and we strive to offer pragmatic, straightforward and empathetic advice. We provide out of hours crisis support to our clients when needed, to include drafting media statements, advising on live safeguarding concerns and providing support in the immediate aftermath of a fatality.

The Gallagher Bassett Speciality team have over 20 years' combined experience in representing and advising organisations and private clients in highly sensitive matters, often involving allegations of sexual abuse.

The GB Speciality team pride themselves on being approachable, empathetic and diligent in their approach and services offered.





OUR AREAS OF EXPERTISE

An Overview of the Speciality Legal Services We Offer Advice On:-

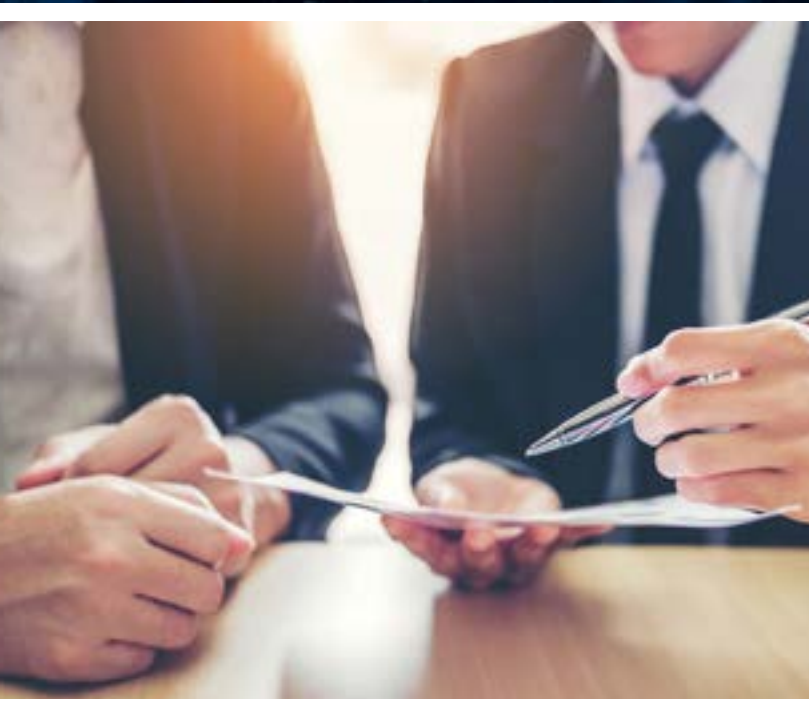
- Recent and non-recent sexual abuse
- Neglect & Physical Abuse
- Safeguarding Expertise
- Redress Schemes
- Reputational Risk Management & Media Publicity Advice
- GDPR, DPA and FOI Requests and Claims
- Human Rights Act Claims
- Mental Health Act Claims and Inquests
- Harassment & Discrimination



OUR CLIENTS

As a team, we have over 20 years' combined experience in acting for, and advising, the following types of Clients:-

- Educational Establishments
- Local Authorities
- Insurers
- Charities
- Sporting Organisations
- Care Homes
- Association of British Insurers



SEXUAL, PHYSICAL & EMOTIONAL ABUSE CLAIMS

For many organisations working with children and young people, they will be aware that disclosures of sexual abuse have increased in recent years and in turn, the number of civil claims seeking compensation arising from alleged abuse have also increased.

The legal landscape applicable to such claims is constantly changing, and whilst there has been clarity regarding the extent of a Local Authority's duty of care provided by the Courts in failure to remove claims, it remains to be seen how the law on negligence and human rights will be defined further. Sexual Abuse claims are complex and often multi-faceted, both in their origin and the approach taken in formulating the claims.

The legal basis upon which such claims are brought is rarely unilateral – for example, allegations of negligence are often coupled with alleged HRA breaches. The factual matrix can also be complex, frequently involving a history of child sexual exploitation, modern slavery and trafficking.

Child sexual abuse is undoubtedly an emotive and challenging issue for all involved and we pride ourselves on supporting our clients to the fullest of our capabilities and handling matters with sensitivity and empathy.





OUR EXPERIENCE:

Local Authorities

- Representing a Local Authority in the drafting and implementation of a redress scheme, established for the benefit of looked after children who resided in the largest network of children's homes in Europe. The scheme was the first of its kind due to the extent of reparation offered.
- Acting for Local Authorities in failure to remove claims, commonly now pleaded in both common law negligence and breaches of the Human Rights Act. We have been at the forefront of representing local authorities in the defence of these claims throughout the recent solidifying of the legal position through common law (DFX and CN). We are often involved in complex failure to remove claims involving multiple defendants and issues of child sexual exploitation and/or modern slavery.
- Advising Local Authorities on their safeguarding practices and potential legal culpability in peer on peer sexual assault claims where both individuals involved are under the age of consent and criminal responsibility.
- Acting for Local Authorities where allegations of sexual misconduct and assault are made against the LA social worker(s), to include working with the LA and/or insurers to consider the merits (or otherwise) of the implementation of redress schemes.

Educational Institutions

- A core element of our expertise has been developed through representing educational establishments to include Local Authority schools, private schools, colleges and universities. We have been at the forefront of advising educational institutions following disclosures arising from the #everyones invited movement and the subsequent Ofsted review of sexual abuse in schools and colleges.
- Our work for schools has been focused on peer on peer assault claims and the safeguarding processes in place which promote safer environments for school children. During recent years, we have worked with primary and secondary schools who have seen an increase in peer on peer allegations where both individuals are under the age of consent and below the age for criminal responsibility.
- The work we have undertaken for higher educational institutions (HEI) has included representation in abuse of power claims whereby a student has made an allegation of an inappropriate relationship with a staff member as well as peer on peer allegations where the matter of consent is often in issue.
- In recent cases we have been involved in for HEI's, the allegations against the HEI are formulated on the basis that the institution's investigation into allegations of assault was negligent, causing harm above and beyond the trauma suffered as a result of the alleged assault itself. These matters often attract adverse media publicity for and we are regularly retained to advise upon, and draft, media statements on behalf of the HEI.





Sporting Organisations

- In recent years, there has been an increased awareness around abuse and other inappropriate behaviours within sport. We have supported many sporting organisations and National Governing Bodies in the handling of complaints and claims against them which arise out of alleged sexual assaults within those organisations.
- A key part of our involvement with sporting organisations has been to advise both the local clubs and the National Governing Bodies on both historic and current safeguarding concerns (see the safeguarding section below for further information).

Charities

- The team have represented and advised many charities in relation to child sexual abuse claims and safeguarding matters, to include large youth activity charities and sports charities for young people.
- Several years ago representation was provided to a large youth charity who required assistance following significant media coverage regarding systemic abuse within the organisation. Initial reputational management and media advice was provided and subsequent support involved handling unprecedented numbers of civil claims initiated against the organisation and engagement with claimant solicitor firms in reaching an agreement on handling the claims whilst negating the immediate issuing of proceedings.

SAFEGUARDING ADVICE

We are one of only a few legal teams in the UK who are trained and highly skilled in providing both reactive and proactive safeguarding advice to organisations. This expertise allows us to provide a comprehensive offering to our clients who require support with safeguarding matters.

We work with a leading safeguarding adviser and forensic psychiatrist to risk assess individuals working within organisations, where safeguarding concerns are raised or suspected.

The safeguarding and protection of children and vulnerable adults is everyone's responsibility and we are passionate about working with individuals and organisations to improve their safeguarding practices and policies.

We also work with organisations on behalf of their insurers, who recognise the global benefits to improving the safeguarding practices of their Insured's, thus reducing risk, opportunity and ultimately claims.

Our Safeguarding Credentials

NSPCC Safer: Recruitment for those in non-educational settings

NSPCC: Introduction to Child Protection

NSPCC: Designated Safeguarding Officer Training

NAPAC: Supporting Adult Survivors of Childhood Abuse

Mentor Forensics: Understanding Sex Offenders Behavioural Analysis

MHFA: Qualified Mental Health First Aider





OUR EXPERIENCE:

- We have collaborated with some of the most reputable safeguarding professionals within the industry to draft and advise upon organisations' safeguarding policies and procedures. Our work in this area included drafting a child protection policy for an interactive scare attraction following a series of disclosures regarding a staff member. We worked with the attraction to implement a 'no touch' policy for all employees.
- We provided advice to a National Governing Body (NGB) following a disclosure made by a member who was engaged in coaching children and young people. The NGB had received legal prior advice which supported the retention of the individual without further assessment. Upon review of the matter, we did not agree with the advice previously given and we worked with the NGB and a leading safeguarding adviser to undertake a risk assessment of the individual, which ultimately led to the removal of the individual from all coaching and member activities.
- We are proud to have been approached by a leading British sports charity to re-draft their child protection and safeguarding policy with a focus on the interplay between coaches and young athletes.
- We advised a university on live safeguarding matters where unproven allegations of sexual assault had been made against a prospective student and we supported the institution through their subsequent risk assessment and safeguarding process in determining whether the offer of a placement should be withdrawn.
- Through our work with Local Authorities, we have supported social workers following disclosures of sexual assault which have been made to them by looked after children and vulnerable young adults in their care.

REPUTATIONAL RISK MANAGEMENT & MEDIA PUBLICITY ADVICE

Organisations who are facing allegations of abuse (particularly sexual abuse) will often require advice on the adverse reputational impact of such allegations and how to minimise and/or respond accordingly to adverse medial publications.

We work with our clients to identify the potential for adverse publicity at an early stage and provide strategic advice on managing that risk.

This will often involve the early drafting of preliminary media statements and the monitoring of adverse social media activity.

Where the organisation has been the subject of adverse publicity, reputational risk management advice is offered to support the organisation in navigating the inevitable challenges this generates for them.





OUR EXPERIENCE:

- Drafting media statements and a public apology on behalf of a well-known youth charity following extensive media coverage about prolific sexual abuse within the movement with coverage run nationally on BBC and Sky news outlets.
- Drafting an apology on behalf of a London Local Authority for delivery by the Council Leader to mainstream media outlets and broadsheet papers, regarding systemic sexual abuse which occurred in the largest network of care homes in Europe.
- We have worked alongside media spokespeople to support clients and prepare them in advance of media attendances, to include live appearances at the Independent Inquiry into Child Sexual Abuse (IICSA).
- Whilst representing a university following the disclosure of unproven, multiple peer on peer sexual assault allegations, we worked with them to draft multiple statements responding to national media publications which sought to disclose information obtained during the civil procedure process. The publications sought to tarnish the university's reputation and we worked closely with them to minimise the adverse impact.

GENERAL DATA PROTECTION REGULATION (GDPR), DATA PROTECTION ACT (DPA) & FREEDOM OF INFORMATION (FOI) ADVICE

We provide advice to our clients on all aspects of GDPR to include Subject Access Requests and Freedom of Information Act requests.

We routinely advise on GDPR compliance and how to comply with requests from the Information Commissioners Office (ICO), being the UK data protection regulator. As well as advising organisations on data protection breaches and general GDPR matters, we also represent them in defending claims advanced under the Data Protection Act 2018 (DPA).





OUR EXPERIENCE:

- Successfully defending claims on behalf of National Governing Bodies and sports clubs arising from alleged breaches of the DPA 2018 presented by alleged perpetrators and relating to disclosures made and information shared during the course of safeguarding enquiries.
- Advising a National Governing Body after they had been reported to the ICO for alleged data breaches following the termination of a Board member's position. The alleged breach was successfully repudiated.
- Routinely advising clients on their disclosure duties in civil procedure claims and their often competing duties to protect an individual's privacy under the Human Rights Act 1998. We also provide advice regarding the appropriateness of the disclosure of care records to the subject in the absence of a Court Order, particularly where the records contain sensitive and potentially harmful entries

HUMAN RIGHTS ACT 1998

It has become increasingly common for Human Rights Act 1998 (HRA) claims to be presented alongside social care and abuse claims.

This is in part due to the ruling in *DFX v Surrey CC* [2021] which has made it more difficult for claimants to establish negligence against a Local Authority in typical failure to remove claims.

There is often significant overlap with abuse claims pursued in negligence and alleged HRA breaches, particularly in cases involving modern slavery, trafficking and child sexual exploitation. HRA claims require early assessment and careful consideration due to the 1 year limitation period that applies.

OUR EXPERIENCE:

- Advising Local Authorities on HRA claims particularly where the misuse of S20 Children Act 1989 is alleged. Such claims are typically presented under Article 6 HRA 1998 on the basis there was a delay in issuing care proceedings and Article 8 HRA 1998 on the basis that delayed care proceedings caused an unlawful interference in the claimant's private and family life.
- Representing a Local Authority in the defence of claims pursued under Article 2 HRA 1998 in which it was alleged that there had been systemic failures of the Local Authority's general obligation to undertake an assessment of a vulnerable adult who subsequently committed suicide.
- Advising Local Authorities in the defensibility of Article 3 HRA 1998 claims (the prohibition of torture, inhuman or degrading treatment, or punishment) both in respect of failure to remove claims where the looked after child has been subjected to exploitation or modern slavery, and in claims arising from the suicide of a vulnerable adult where it is alleged there was a real and immediate risk of harm which was not identified and/or acted upon.





MENTAL HEALTH ACT 1983 & DEPRIVATION OF LIBERTY SAFEGUARDS (DOLS)

The law relating to mental capacity and mental health is complex and specialised.

The team provide advice to their clients on consent to treatment under the Mental Capacity Act 2005, detentions and assessments for detention under the Mental Health Act 1983 and the appropriateness and necessity of Deprivation of Liberty Safeguards (DoLS) particularly in ensuring the DoLS is aligned with the individual's best interests.

OUR EXPERIENCE:

- Representing Local Authorities and their Approved Mental Health teams in claims advanced in negligence by the deceased's estate under the Mental Health Act 1983 and Human Rights Act 1998 following the suicide of a vulnerable adult prior to a Mental Health Act Assessment being undertaken. Such claims often involve multiple defendant parties due to the cross-over on obligations and treatment provided and require analysis of multilateral data from the Police, Hospital Trust and AMHP service.
- Advising a Local Authority on their S117 Mental Health Act 1983 after-care provisions and responsibilities with specific regard to the duty to provide mental health aftercare services for people who have been detained in hospital being jointly borne between the Local Authority and the Clinical Commissioning Group.
- Advising and representing a Local Authority with regards to their responsibilities under the Care Act 2014 to assess and meet the needs of a vulnerable adult's requirements for care and support. Further support provided in defending a claim in negligence and breach of the Human Rights Act 1998 where it was alleged that the Local Authority deprived the Claimant of his liberty by virtue of detaining him under the Mental Health Act 1983 and/or the Mental Capacity Act 2005.
- Providing Local Authorities with advice as to the effect and applicability of S75 Agreements (S75 of the NHS Act 2006) which enable the joint commissioning and commissioning of integrated services.





INQUESTS & SUICIDE CLAIMS

The team provide support to clients in the immediate aftermath following a fatality, throughout the Inquest process and in the handling of any subsequent claim.

We provide advice, practical assistance and representation throughout the Inquest process to public bodies, local authorities, educational institutions and charities.

We also provide support to our clients in managing reputational risks and in supporting their staff through what is invariably an emotive and stressful process.

OUR EXPERIENCE:

- Representing clients at both Pre-Inquest Review hearings and final Inquest hearings to include supporting clients and their staff with the drafting and presentation of witness evidence, requests for an Article 2 Inquest and the use of expert evidence.
- Providing crisis support to clients in the immediate aftermath following a fatality, including engagement with the Coroner's Court to seek Interested Party status, producing reports and witness statements on behalf of the Client in their capacity as an Interested Party and advising on requests and deliberations as to the appropriateness of a Preventing Future Deaths Report.
- Advising clients on their Duty of Candour requirements and thresholds.
- We have provided representation to educational institutions following the suicide of both staff members and students following the advancement of claims in negligence presented under the Law Reform (Miscellaneous Provisions) Act 1934 and the Fatal Accidents Act 1976. We have also handled claims on behalf of our clients where the student has unsuccessfully attempted suicide, resulting in catastrophic injuries seeking multi-million pound damages settlements.

DEFENDANT PERSONAL INJURY TEAM

MOTOR LIABILITY, CRIMINAL DEFENCE & REGULATORY REPRESENTATION

The team have an established and highly-regarded portfolio of experience in representing and defending insurers and their Insureds in personal injury claims arising from motor accidents.

Much of the team's experience has centred around providing defence expertise in high value and catastrophic motor claims as well the provision of defence representation in criminal proceedings for some of the most serious driving offences to include causing death by dangerous driving, careless driving and driving whilst under the influence.





OUR EXPERIENCE:

- Representing clients during Police interviews and Crown Court proceedings for indictable road traffic offences. We work closely with leading Counsel where their advice and/or representation is required.
- Advising, and handling the defence of claims, where serious and catastrophic injuries have been suffered to include amputations, severe psychiatric injury and complex brain injuries.
- Advising clients on multi-million pound claims for damages, defences of automatism and no-fault, complex issues of causation and recoveries.
- We provide support and assistance to clients at all stages of a regulatory investigation to include, but not limited to, the Health and Safety Executive. We support clients through the investigation process and are available to attend on-site immediately following a notifiable incident.

EMPLOYERS LIABILITY AND PUBLIC LIABILITY CLAIMS

We advise Insurers and their Insured's on claims for psychological and physical injuries presented by employees or those in a position akin to employment, as well as providing comprehensive but straightforward advice in relation to public liability.

The team's expertise includes providing advice on complex policy coverage issues, work-related stress claims and health and safety regulation matters.

OUR EXPERIENCE:

- Providing representation to a large local government transport body in the handling of their EL and PL claims to include their large-loss and fatal claims.
- Acting for Local Authorities in handling both EL and PL claims arising out of accidents at LA owned schools and on LA highways.
- Representation provided to the fire and rescue service with a focus on PL claims and work-place psychiatric injuries.
- Dealing with the outlay, recovery and environmental impact for a LA following an explosion at an oil storage depot described at the time as the largest incident of its kind in peacetime Europe.
- Representing a L.A in a high profile housing block fire involving a number of fatalities and securing contributions from other implicated parties to finalise the settlement of all claims.





OCCUPATIONAL DISEASE

The team have extensive experience in handling occupational disease claims for clients to include transport providers, energy providers and private companies. We represent clients during the pre-litigation stage, up to and including representation at Trial.

OUR EXPERIENCE:

- We have experience in representing clients in a wide-range of occupational Health claims to include asbestos-related claims, occupational stress and mesothelioma claims. We also have significant experience in providing representation in noise-induced hearing loss claims and hand arm vibration syndrome claims.
- The team is able to provide a disease claims handling service for pre-litigation and litigated claims and has experience in advising and representing a multitude of clients to include insurers, educational institutions and private companies.

GET IN TOUCH:

SPECIALITY/SAFEGUARDING

Kate Prestidge

Senior Solicitor

Gallagher Bassett Speciality

✉ Kate_Prestidge@gbtpa.com

☎ 07858 372 428

Wendy Goulder

Senior Associate

Gallagher Bassett Speciality

✉ Wendy_Goulder@gbtpa.com

☎ 07548 103 172

EL/PL:

Ron Ruston

Senior Solicitor

Gallagher Bassett Speciality

✉ Ron_Ruston@gbtpa.com

☎ 07548 103 171

Tina Kerry

Litigation Manager

Gallagher Bassett Speciality

✉ Tina_Kerry@gbtpa.com

☎ 07858 372 425

