

122. The Brain Injury Solicitor - Laura Barlow

When a brain injury is caused by negligence you may need the help of a brain injury solicitor.

Socials:

<https://www.instagram.com/thebraininjurysolicitor/>

<https://linktr.ee/TheBrainInjurySolicitor>

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Laura 0:00

I don't think anybody really wants to go through a legal process to get compensation. But if they're in a really difficult situation, you know, they've lost their income, they're really struggling, they haven't been able to get the rehabilitation that they really need. I mean, there is obviously some provided and after use before an injury, but it often doesn't go far enough.

Laura 0:24

And so I think that people do it more out of a need to be able to continue with their lives in a full a more full and meaningful way. And the way that damages are calculated, I briefly touched upon it a minute ago. There aren't any and the press will make you believe otherwise. But there are no lottery wins.

Intro 0:54

This is the recovery after stroke podcast, with Bill Gasiamis, helping you navigate recovery after stroke.

Bill 1:06

Bill from recoveryafterstroke.com This is Episode 122 and my guest today is Brain Injury Solicitor Laura Barlow. Laura is an associate in the adult brain injury department at Bolt Burdon Kemp a law firm in the United Kingdom.

Bill 1:23

She works solely on adult brain injury cases and primarily in cases where the client's brain injury has been caused or contributed to by clinical negligence. Now before we get started, if you have ever wondered what else I can do to help you with your stroke recovery, you should know that you can now get recovery after stroke coaching right from the comfort of your own home.

Bill 1:48

I too am a three-time stroke survivor and a brain surgery survivor and I have built for you what I was missing when I was sent home from the hospital in the hope that you don't have to do stroke recovery as tough as I did.

Bill 2:00

Support packages give you access to a variety of tools 24 hours a day, 7 days a week so that you can also work on other areas of stroke recovery, that you don't get the chance to at physical therapy or rehabilitation.

Introduction



Bill 2:14

With tailored support available for less than \$8.50 per week all recovery after stroke support packages, bring stroke recovery to you in the comfort of your own home. to try out recovery after stroke support and see if it is right for you.

Bill 2:28

You'll get the first seven days free, as well as a 30-day money-back guarantee no questions asked. As a bonus, you will also get to face to face zoom support calls with myself to take your recovery to the next level. So go to recoveryafterstroke.com/support to sign up.

Bill 2:46

It won't cost you anything for the first seven days. And you'll get a full refund. If you're not happy after 30 days. You have nothing to lose and everything to gain. And now it's on with the show.

Bill 3:06

Laura Barlow, welcome to the podcast.

Laura 3:09

Thank you.

Brain Injury Solicitor

Bill 3:11

Thanks for being here. This is called the recovery after stroke podcast. That means most of the people have had a stroke and have some kind of brain injury. So when I came across your Instagram, I thought I better reach out to Laura because Laura is the brain injury solicitor. And I thought what is that? Like how can there possibly be a brain injury solicitor? So can you explain to me what it is that you do?

Laura 3:39

Yeah, of course. So I'm a solicitor in England, Wales. And I specialize completely on cases where somebody suffered a brain injury, either through an accident or negligence. So it might be that somebody has been in a car accident or they've had an accident at work, or some of our cases, through medical negligence, people have suffered a worse injury than they would have done.

Laura 4:11

So for example, somebody might have had a stroke, and they haven't had treatment in a good amount of time. And that can sometimes result in a claim for negligence. So I deal with all different kinds of cases. But the one thing that all my clients have in common is that they've suffered a brain injury.

Bill 4:28

That must be challenging, because your clients all have had a brain injury, which means they might have trouble with memory, with speech, with cognition with all these kinds of things. How do you communicate with them? What their desires are? About what they need after a brain injury?

Bill 4:49

I can't imagine myself after my second bleed, having a communication with a solicitor and being able to instruct them on what my needs are and my stroke, and challenges that I've experienced were not due to negligence. But if they were, how do I even start that conversation with somebody to help me?

Laura 5:09

Is it your right is it's really difficult and many of our clients have a trusted family member or friend, or their spouse that actually act on their behalf or may stand, if a person doesn't have the capacity to do that by themselves, which often with brain injury, they don't, they can have somebody who's close to them to do as much as they need done for them in terms of the day to day, things on the case, explaining what happened.

Laura 5:44

And so, we have a very flexible approach. And we completely appreciate that, because we deal with people who have suffered brain injuries every day. So we know that every brain injury is different, and every brain injured person is different.

Laura 5:58

So we just do whatever we can to accommodate, and that is often somebody else speaking on that person's behalf. Or it can be just making sure that, you know, we try to speak in ways, which is easy to understand. And we try and simplify things as much as possible.

Laura 6:21

And we can take as much time, as you know, as, as a person needs to, to go through things, because often in the cases, things can be quite complex. And so it's just really yeah, being available, being open to the fact that our clients often do need extra support. And we appreciate that and we do whatever we can to make it as easy as possible.

Bill 6:51

How early in the process, do you find people come to you, so brain injuries happen, and then there's an amount of time that that person spends in hospital and in rehabilitation and someone? How soon do people like yourself come to be involved in the case and start supporting people who are recovering from a brain injury,

Laura 7:16

It can be straightaway, depending on so sometimes you will have somebody that's been injured very severely, and their family members will be looking for help almost straight away, and we can get involved, you know, as soon after as it's occurred. But often, with cases, especially in clinical negligence cases, I would say that there is a delay.

Laura 7:41

Because sometimes people don't even, it's not till sometime later, that they start to think, oh, that didn't seem quite right. I wonder whether, you know, something went wrong, and, you know, people with clinical negligence, which if somebody has a stroke, you know, you don't always know what's happened to you.

Laura 7:54

And, sometimes people will get their medical records before approaching us and think, about whether they feel that something might have gone wrong. And often they don't even know until a long time later. So it can be but we are sometimes instructed years after the event, when somebody has actually thought, well, I just don't think this is right, I really want somebody to look at this for me.

Laura 8:41

And the general ruling for cases in England and Wales is that you have to bring the claim within three years of a negligent event occurring. But there is there are some exceptions to that. And if you had no knowledge that there was any negligence, and it was reasonable for you to not have had that knowledge, then the time starts a little bit later.

Laura 9:06

There's also you know, if people don't have the capacity to bring the proceedings themselves, and that time limit can be sort of waived if that person really couldn't have brought that case by themselves, and they have to rely on somebody else to

do that for them. So yeah, it can vary a lot.

Bill 9:28

Yeah, it sounds like a really interesting space, people who break a leg at work or in a situation where there may have been negligence, often they have a broken leg. It's obvious, the healing from it, they're immediately impacted, and they can make a decision around that.

Bill 9:46

What are some of the things that people try to receive as compensation after they've claimed because I imagine the first thing that comes to mind for people is you know, let's get some money. See if we can pay some bills all that time. But what are some of the other things that people claim for or request?

Common claims



Laura 10:07

That's one big part of the case called quantum. And so when usually, once we've dealt with liability, then we start looking at quantum. And, well, there are a number of things that come into valuing a case for damages and what people will need.

Laura 10:25

One of the most immediate needs, from my perspective, is rehabilitation. And I know that you are very focused on that. And I mean, all of the research shows that the earlier you can have rehabilitation for a brain injury, the better recovery you may make if you can get that sooner rather than later.

Laura 10:49

So physio therapy, speech and language therapy, occupational therapy, lots of different therapies, that people will need following a brain injury to get them back living the most meaningful life that they can following an injury.

Laura 11:12

Loss of earnings. So if somebody was earning previously, and they're no longer able to work, and that's because of the injury, then that will be part of the case, one of the largest parts of compensation in a lot of our cases is for care, and support going forwards.

Laura 11:32

So especially for people who have suffered really severe brain injuries, they might need 24-hour care for the rest of their lives. And if they're, you know, at any age, but if they're a young person, they're going to need that care for what, like 50, 60 years. And so we have to work out what that care will cost on an annual basis.

Laura 11:55

And then usually on those cases, they don't receive all that money in one go, they will receive an annual payment for the cost of their care, and then the payment that they receive each year goes up according to what care costs so they will get that for the rest of their lives.

Laura 12:14

There were a number of different things for equipment that they might need now and in the future. So when we look at brain injury cases, and we say them we have to basically predict what's going to happen for the rest of that person's life and what they're going to need in terms of equipment, care, therapies. And it's a real job, we have to get lots of experts to tell us what we think that person is going to need for the rest of their life.

Bill 12:46

Yeah, it sounds extremely complicated. And it's great that somebody is out there trying to unpack for somebody who's been injured. Unpack what it is that they're going to need to support them for the rest of their life.

Bill 13:04

That's amazing. But for me, there's this underlying thing you hear about people, and we're becoming a litigious society. In most Western cultures, I know America

is very comfortable with the process of suing people and expecting some sort of financial outcome from a case where there has been negligence.

Bill 13:32

In Australia, there is that too, but generally speaking, I feel like it's not so common for people to feel like they're entitled to something. So we don't really have this type of method of feeling like I've been injured by someone somehow, somewhere, I should go after them for money.

Bill 13:57

And not only is that thinking not common, and I say that from my experience. Not only is it not common, it's very difficult for me to go to a lawyer if I've had a stroke, because I don't have money to pay a lawyer to go through this process and potentially be on a case for two years.

Bill 14:23

So how do people approach lawyers where they've lost their income, and they don't have a way to support a case like that? What happens? How is that possible?

Laura 14:37

There are ways that the cases can be funded. And a lot of our cases are funded by what's called conditional fee agreements. So what we do is we agree to take on a case and look at it sometimes, you know, if it's a car accident and somebody is a passenger in a car, it's quite obvious that you usually establish liability.

Laura 14:59

But for clinical negligence cases, we don't really know what's going to happen whether it's going to be a case or not when we first meet the person. So if we think there's enough of a chance that it might be a successful case, we usually will take on a case on what's called a conditional fee agreement.

Laura 15:18

So we will investigate that claim for the person. And if we think there's a case, then we will continue with that claim going forward. And how it works with cases in the UK is that the loser of the case pays the winners costs. So if we win a case, we recover most of our costs from the other side, so the defendant, so whether that's a driver's insurance company, or if it's a hospital.

Laura 15:49

So we take a risk, and if we investigate that case, and there isn't a case, then we have to write off our fees, and we don't charge the person that, you know, the cost that we've incurred. So that's how a lot of our cases are funded. Because, like you say, if you've had an injury, and you've lost all of your income, how are you going to pay a solicitor?

Laura 15:52

And that, you know, that is a real issue so that's one of the reasons why these funding arrangements came about so that people can actually have access to solicitors without having to you know, remortgage their house to investigate a case. So yeah, so that's, I mean, they, you know, it's good that we've got this and we can offer those to clients.

Laura 16:41

And yeah, it means that people who otherwise wouldn't be able to get a case investigated can. And yeah, you talked about a little bit about sort of culture and you know, people feeling entitled to some kind of compensation.

Intro 16:59

If you've had a stroke, and you're in recovery, you'll know what a scary and confusing time it can be, you're likely to have a lot of questions going through your mind. Like how long will it take to recover? Will I actually recover? What things should I avoid in case I make matters worse?

Intro 17:16

Doctors will explain things that obviously, you've never had a stroke before, you probably don't know what questions to ask. If this is you, you may be missing out on doing things that could help speed up your recovery. If you're finding yourself in that situation, stop worrying, and head to recoveryafterstroke.com where you can download a guide that will help you.

Intro 17:38

It's called seven questions to ask your doctor about your stroke. These seven questions are the ones Bill wished he'd asked when he was recovering from a stroke, they'll not only help you better understand your condition, they'll help you take a more active role in your recovery, head to the website now, recoveryafterstroke.com and download the guide, it's free.

Claim purposes

Laura 18:01

Don't think anybody really wants to go through a legal process to get compensation. But if they're in a really difficult situation, you know, they've lost their income, they're really struggling, they haven't been able to get the rehabilitation that they really need. I mean, there is obviously some provided after user for an injury, but it often doesn't go far enough.

Laura 18:26

And so I think that people do it more out of a need to, you know, to be able to continue with their lives in a full and more full and meaningful way. And the way that damages are calculated, I briefly touched upon it a minute ago, there aren't any and the press will make you believe otherwise.

Laura 18:51

But there are no lottery wins. There are no people just jumping gleefully, in throwing their money around, because that's not what it's like. It's all calculated. And it's based on a person's needs for care for rehabilitation, only a very small proportion of what people receive is actually for the injury itself. Yeah, and that money it's all got a purpose. And it's all you know it mostly for things that aren't really that exciting.

Bill 19:28

As a lawyer, you really got to get through and see if you can somehow extract the truth from a situation and often you're dealing with a brain-injured person who will maybe struggle with not necessarily the truth, but just even the events that led up to the injury.

Bill 19:49

And then you've got the other side. And I know you can't talk about specific cases. So in a situation where the defendant has been a hospital, there seems to be this understanding that a hospital will do everything to cover up some of the issues that may have caused a problem.

Bill 20:12

What do you think is behind those types of cover ups? Is it that they don't want to admit fault because that's going to make them criminally liable somewhere? Is it

because there is a possibility that it'll make them financially liable? Is it something else that goes on in the psyche of an organization like a hospital that creates these situations.

Bill 20:36

Where they, instead of coming out and going, we're going to support this person because we've made a mistake. Let's end this three years earlier. What makes them spend hundreds of thousands of pounds or dollars on a case to avoid paying a few hundred thousand dollars? or pounds?

Laura 20:52

Yeah, it's really difficult. I mean, I've dealt with so my background is in clinical negligence cases so I've dealt with hospital trusts a lot in the past. And you do sometimes wonder why, you know, if they've got evidence, and you know, we believe there's a case, wonder why cases are fought and liability isn't admitted sooner?

Laura 21:18

And I don't know, sometimes I think that there is a real difference of opinion as to because some of the issues are so complex, you can we have an expert in an area of medicine saying, yes, this was negligent. And they may have an expert saying, No, it wasn't. And there is, and you know, in some cases, there is that difference of opinion.

Laura 21:40

And they hold one view and we hold another view. And if we can't work out those differences, then it will end in a court case, and not many cases actually go to a trial? Usually, there is some settlement before it actually goes to a trial. So there is I think in some cases, there are really differences in opinion, in the expert evidence that means that the defendant will not just admit liability and say, look, we'll pay this damages to you.

Laura 22:15

In other cases, the evidence is so strong that there is an admission of liability. But I have been on the side, you know, on cases where I just think, Why has liability not made admitted, in this case, we've got so much good evidence. And yeah, I don't always know what's going on, on their side of things.

Laura 22:36

So just have to kind of keep thinking about what our case is and the strength of our case and just keep going and do all the work and hope that the result will come through in the end, which is, you know, the person winning their case and getting some compensation to help them live a better life.

Laura 23:02

Yeah, it is really hard. And I think it's so hard for the injured person, if we've got, you know, if we're saying to them, we've instructed this expert, they believe that there was negligence, or you've got a good case, and then we get the response from the other side, and they just say, no way.

Laura 23:23

It's really hard to try and explain that and, you know, work out why that's the case. But all we can do is work on our own case, and make sure that we are comfortable with the strengths of our own case, and just keep going with the evidence really.

Bill 23:42

Yeah, it would be really difficult for a stroke survivor or somebody that's been injured in a neurological way to deal with all of that I know how difficult it is to just deal with a regular life. Because of the challenges that are created by a brain injury, how much involvement is there on behalf of the person that you're representing?

Bill 24:11

Are they necessarily need to be involved in every step of the case, or you guys acting on their behalf? And they aren't necessarily involved in every step of the process? How do they keep getting informed?

Laura 24:26

Yeah, well, it depends on the severity of somebody's injury if they have if they really struggle to understand or deal with their own affairs. And we will often be dealing with a husband or a good friend, or wife or a son or daughter just somebody in the family.

Bill 24:46

Power of attorney.

Laura 24:48

And yeah, and if that person does formally lack the capacity, and that needs to be assessed by a doctor at appropriate point, but if they formally lack the capacity to handle the proceedings themselves, then that person is appointed as what's called the litigation friend, so it is like a power of attorney for the case.

Laura 25:06

And that person can then has the right to make the decisions about the case. But there is some, you know with brain injury, if that person wants to be involved in their case, we don't say I'm sorry, you don't have the capacity, you know, we're not talking to you anymore.

Laura 25:27

There's flexibility in that. And so, we take it on a case by case basis, and if somebody they can be as involved or, you know, as out of the picture as they want to be, and because, some people will just say, look, I just can't deal with this, speak to my wife, I don't want to, you know, I trust her to make the right decision.

Laura 25:52

And so, if that's the decision, that person does lack capacity then that's absolutely fine. But other people want to be very involved in their cases. Yeah, if somebody lacks the capacity formally assessed, then we do need to take the formal instructions, and somebody else so what points or decisions need to be made.

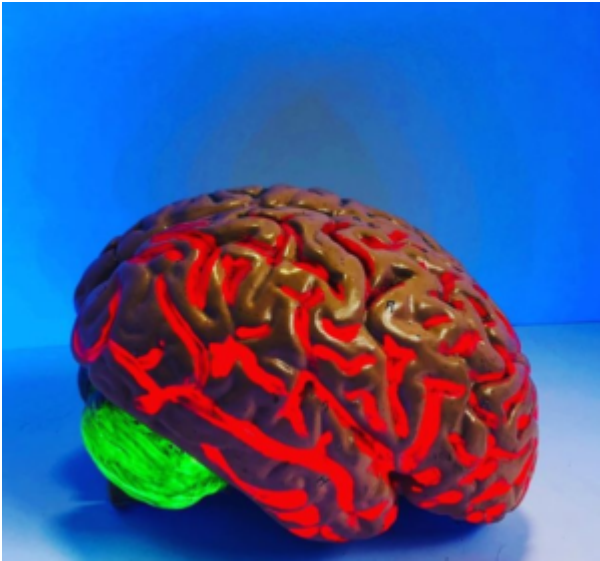
Laura 26:16

So if an offer of the settlement came in from a defendant, we have to consider whether that amount of money was good enough to settle the case. And we have to take instructions on, you know, we advise on what we think. And we would say to somebody, we think this is, would either say, this is too low, we need to try and up that number.

Laura 26:16

Or we might say, actually, that's a good offer, we think you should accept it. But we can never just do that we have to get some of these instructions, we can't just go ahead and do it. So if the person doesn't have capacity, we would advise them and take their instructions on that. But we do get situations where our advice is to accept an offer. And somebody says, well, actually, I don't think that's enough. And you know, we will try and work with that where we can.

The extent of brain injury



Bill 27:08

Yeah. What kind of range of brain injuries? Have you seen? I imagine that the real severe ones where people are totally incapacitated and can't make decisions on their own. But at the other side of the spectrum, is there something that you've seen that has been, well not that such a thing as a minor brain injury, but more minor and less serious in nature, and therefore less serious in the way that that person is going to go about the rest of their life?

Laura 27:41

Yeah, well, I mean, there's a really broad spectrum. And we've dealt with cases for people who have, you know, that they are basically locked in, they can't move, they can't communicate. And so, that's probably the most severe kind of injury that we deal with.

Laura 28:02

But yeah, on the more mild side of things. We do deal with people who have more subtle brain injuries. And you might think that that would be more simple, but actually, I think it's sometimes makes it more difficult, because when people are quite able, it can be difficult to, you know, work out what it is exactly that they need and how things are different to before they had the injury.

Laura 28:34

And of course, some people who have suffered brain injuries can still work. And that's great. And, you know, it's good for people to be able to do as much as they possibly can do, but I think it can sometimes make it actually more complex, when

you've got somebody who's quite able to work out what their level of need is, and to, you know, look specifically, they might really be absolutely fine in one area.

Laura 29:00

So say physically, they might actually not really show any signs at all, but they have real difficulty with a certain aspect of speech. So they might have real difficulty like word-finding, for example. And that might not be obvious to you know, if you were just to see that person and chapter them in a shop, you might have no idea and look completely normal can speak really well.

Laura 29:26

But they've actually got a brain injury that does make things more difficult for them. And so, yeah, the subtle brain injuries in some ways can be just as complex as the really severe injuries. Because you've got somebody who's they sometimes call it walking wounded.

Laura 29:46

So you would have no idea it's an invisible disability. You would have no idea of what the you know, the difficulties that are going on inside their heads, and that they might, you know, they might just be having a normal conversation with you but inside their head they're having to work really, really hard to do that.

Bill 30:03

Yeah. I know what you mean.

Laura 30:06

I'm sure you do. Yeah.

Bill 30:07

So strange that one of the biggest challenges that stroke survivors who don't appear to have had a stroke. And by that means that they're not in a wheelchair or they don't have spasticity in one of their limb is really difficult getting people to comprehend what is going on for them and why it's difficult to go back to work, or you know, drive a car or do any of those things.

Bill 30:33

Yeah, so it's really frustrating for a lot of people, you know, lighting is an issue for some people. And if you've never had an issue where you've experienced that the light above your head is causing you pain or harm. How do you describe how do

you understand and comprehend that when you tell, when somebody tells you that that's what they're experiencing, or noise is an issue.

Laura 30:56

Noise we'd find a lot, yeah.

Bill 30:58

Dramatic noise and might just be the regular noise in a space that causes an issue for that person. So and vision issues. So yeah, it's really fascinating topic. And that's why I contacted you, because I felt like there was more to it than just lawyers going after people for money.

Laura 31:20

Yeah, well, the reason that I do this job is because I actually love the work and I love working with people and the best part of my job is when you've started a case and somebody you know, they've got a lot of difficulties, a lot of things that just aren't right, and you can, when we start being able to get funds to put things in place, and you can see improvements, and you can see that people are, you know, getting their lives back.

Laura 31:47

And it might not be the same as before their injury, but they've actually got meaning in their lives, and like, finding joy, and being able to do things. It's so rewarding. And, you know, that's what I love, and we have a real focus on trying to get rehabilitation, as soon as we can, which can be difficult in clinical negligence cases, because of the whole thing of not being able to work out if there is a case on liability, it can take some time to do that.

Laura 32:23

And to establish that book, that it really is the best feeling and when you can see somebody you know, and that what you've done is made an impact on their life, for the good. It's really great.

Laura 32:39

One of the cases that I've worked on when I was quite newly qualified, it's slightly different to what I do now, because I deal with adult brain injuries now. But this was a little girl who'd suffered a brain injury at birth. And when I first went to see them, she was I think she was about eight years old.

Laura 33:00

But she was fed, she was peg fed. So she was very big eight-year-old girl. And her mom was they were living in a tiny, tiny little two-bedroom house and her mom was having to carry her up and down the stairs, because they had no way for her to get about and she was really severely injured.

Laura 33:16

She was in a wheelchair, couldn't walk, couldn't talk. Anyway, we've managed to get rehabilitation and better accommodation and just seeing them after all of that was in place. And her parents were so, so grateful because they could just be parents, again, they had parent support that they didn't have before.

Laura 33:41

They had much better living accommodation, they weren't in this tiny house or just trying to get by with all these huge equipment. And they just couldn't operate in the house they had before. And it was such a when we when he settled that case. And they you know, they knew that she was going to be looked after really well for the rest of their lives.

Laura 34:02

They were just, you know, they were just so grateful and so happy. And it really yeah, it was it's fantastic. And I'm really privileged actually because I was only like one or two years after I'd qualified I got to work on that. So I was really, you know, privileged to be able to help them.

Bill 34:19

That's interesting. Until right then I never considered that these types of cases would help to make things right for some people who are caring for others that are experiencing brain injury. And it makes complete sense. But of course, you know, I'm thinking from my point of view and not my carers point of view at the time my wife was my carer, but she was my carer for a short amount of time because my recovery was such that I started to regain my independence relatively quickly compared to somebody who's going to have a lifelong issue.

Taking too long to get support after a brain injury



Bill 34:57

So I see that this can be extremely useful and supportive for people who are caring for stroke survivors because they often suffer the most as well. I know that carers do it really tough when they're caring for somebody with a brain injury because they put them first for everything. How come it took 8 years for that family to get support in this way? Was this something missed along the way that stopped them from approaching a law firm?

Laura 35:36

I'm trying to remember exactly when they started because the case when it came to us had previously been with another solicitor. And for whatever reason, it transferred over to the firm that I worked at, at the time, I didn't think that her family had approached a solicitor straight away after after she was born. Like, like I was saying earlier, they probably didn't, you know, the shock of what happened.

Laura 36:04

And just them getting through the baby gears and being able to just come to terms with what had happened. So I think it was probably a few years later that they actually started thinking Well, actually, is this, you know, we, our daughter is very severely injured? You know, should this have happened? Was she going to be born like that? Was that always going to be the case or Did something happen?

Laura 36:32

And those cases, child brain injury cases, it's certain. They are very complex cases, too. You always need four different types of medical expert before you even have any idea of whether there's, there's a case and and in her case, it was the

fact that she should have been born sooner. And if she had been born sooner, she might not have suffered those injuries.

Laura 36:54

Also, after she was born, she wasn't resuscitated properly. So she's been suffered further injury. So there were two sort of events that led to her injury. But yeah, I think her parents kind of, after that, yeah, after they'd really sort of started thinking about what had happened, then they decided to seek legal advice.

Laura 37:15

And when I started working on the case, I think it had been going for a little while already. And quite soon after we took on the case, we then got an admission of liability. So we could then start doing all of the things that I talked about. So getting errors, and looking at therapies that might help her.

Laura 37:36

And, you know, it was really, really great to be able to see the difference. And, and what you were talking about people being carers of people with brain injuries. And I mean, it's so hard and so difficult for people who, you know, if it's a husband and wife and one of them has suffered an injury, no longer really being a wife, but being that person as Kara and just wanting to be back to husband and wife and the relationship changes so dramatically.

Laura 38:08

And having outside support to provide care can really help people start to separate and, and get relationships back then probably not so exactly as they were but you know, being a carer to somebody all the time, it very difficult to be a carer and the wife and I had the same thing with that case.

Laura 38:29

That girl's parents, they just wanted to be her parents, and they'd always just, you know, obviously, when a baby is a baby, you need to be a carer anyway. But you know, you expect that as your children grow up that you don't always have to be there sort of, you know, 24 hour carer which they were to their daughter.

Laura 38:46

And it was so nice for them to not that they wanted to hand her over, but to have some extra support and that they could actually just spend time enjoying the time with their daughter rather than providing that really intensive care all the time.

And yeah, and trying trying to change their relationship back to a parent child relationship rather than a carer and patient relationship.

Bill 39:12

Yeah, It's draining. It'd be a strain on every aspect of life. I know that most of the cases, say the clinical negligence ones are going to be people who made a mistake who who did something wrong on purpose. Usually, people who mean well, the doctors, the nurses. And they're trying to help us, usually something that goes wrong because we're human.

Laura 39:41

Yeah, I know,

Bill 39:43

How is that handled because it's easy to blame that person for having done this or not having done that, and therefore, I am in a situation I'm in, but the reality is that they're mostly trying to do the right thing. So how do you handle that as a lawyer?

Laura 40:00

Yeah, I think it's difficult. And, you know, we have the NHS in the UK, and it's an amazing organization, and they do such brilliant things. But, unfortunately, people have bad days and things do sometimes go wrong. And I don't think that, I've never sort of felt, you know, against the NHS or against individual doctors that have worked on you know, that have been the doctor to patients that have been injured, you must be a really bad doctor a bad person.

Laura 40:41

There are a few we have had in the past in the UK, some sort of like rogue doctor cases where you've got a pattern. And that, you know, there are very few, but there have been a couple of cases of certain surgeons that have done things repeatedly wrong or just ethically questionable.

Laura 41:03

But generally, on the whole, I completely agree, I think it's people just trying to do the best job that they can, sometimes things just go wrong. And the way liability is established in cases in England and Wales, is that just because somebody chose the wrong course of action, it doesn't mean that that was necessarily negligent, if another group of doctors would agree that that was a

reasonable thing to have done.

Laura 41:35

Even if there were other things that were reasonable, just because they chose one course, it doesn't mean that was necessarily negligence, it has to be something that no reasonable doctor would have done at all. So that's the standard of proof. And it's quite hard to establish that.

Laura 41:52

Because, yeah, you know, if there's like, somebody who's got cancer, and there were five different treatment options, five treatment options might be reasonable, but one might be the least preferred by most doctors. But if a few of the doctors may have done that, you wouldn't establish a claim for negligence. Does that make sense?

Bill 42:14

Yeah. So you're not going after people just because they're people?

Grounds for negligence

Laura 42:17

Just because they made the wrong decision on a case. I think it has to be the treatment has to be so unreasonable that no reasonable medical practitioner would have done that same thing or not done something. And yeah, just because, you know, somebody had a one-off bad day, they made a decision that wasn't right. I don't think that you know, I don't ever feel you would never go to that doctor .

Laura 42:58

And there's a neurosurgeon called Dr. Henry Marsh, I don't know if you've heard of his book. It's called Do No Harm. He actually one of the top neurosurgeons in the UK, I don't know if he's still practicing at the moment. But he wrote this book. And in his book, he admits that there was an occasion where he was negligent.

Laura 43:24

And he went to a conference with a load of solicitors and barristers. And he, you know, he said to them, yep, I, you know, I was wrong. On that occasion. It was poor treatment. And it was a severe brain injury case, it was a an expensive claim. But he held his hands up and said, I made a mistake on that occasion.

Laura 43:51

And he was, you know, one of the best doctors in the country and had something went wrong. And somebody was really seriously injured. As a result of that. And, like he, you know, he must have felt, I can't just try and like sweep this under the carpet, because even though I am an amazing doctor, I did something wrong and that family and the people caring for that person who's now severely disabled.

Laura 44:22

They, why shouldn't they get some compensation for what's happened and the mistakes that he made on that occasion? It's an amazing book.

Bill 44:36

Yeah, I'll look into it. And I'll put it out. For people on the show notes if anyone wants to find it. They can go and have a look. It's a fascinating conversation. Thank you so much for being on the podcast.

Laura 44:51

Thank you for asking me.

What should I do first?

Bill 44:53

Yeah, you're welcome. If somebody is listening. And there's a potential for them to have something trigger in their mind. Maybe I should look into this. Now this podcast goes out to the entire planet. So people, who listen to it in all countries. So we're not advising anyone to do anything specific. But generally speaking, what would you say to somebody who's at home listening to this and going? That might be me. What should I do first?

Laura 45:25

I think that the first thing to do, and I mean, it will vary depending on the country that you're in. But I think hopefully, in most countries, you would be able to have at least an initial call with somebody in a legal setting to say, look, I've got a there's just something niggling I, you know, I'm just not sure about this. Can you let me know? Do you think there's anything here?

Laura 45:50

And I think that just just taking that first step just to ask the question, because, like, we've talked about clinical negligence cases a lot. I've investigated clinical

negligence cases where it, you know, we don't get evidence, and we just, you know, there isn't a case.

Laura 46:05

But that person has then got the answer to a question. And even if they don't have a case, they know what happened to them, and they can actually take comfort in some cases, that actually there wasn't something that could have been prevented. So yeah, so my advice really would be to just try and have a free phone call with somebody who might be able to say to you, yes, I think there's something worth investigating further or no, actually, I don't think there's anything that you can do. But you know, they can support you and signpost you maybe to other organizations that might be able to help.

Bill 46:46

Yeah, excellent. If somebody wanted to find out a little bit more about you or the work that you do if they wanted to touch base with you for a similar question, where would they go? Where is the best place?

Laura 47:00

There are a few avenues. There's obviously I've got an Instagram account @thebraininjurysolicitor, so anybody can message me on there. And then I work for a law firm called Bolt Burdon Kemp based in London. So we have a website and you can, I can give you the details, Bill, and anybody can contact us. Yeah, can phone call, email. Any anything really, if you want to. If you want to get in touch and ask me a question about anything. I'm happy to chat.

Bill 47:34

Laura, thanks so much for being on the podcast.

Laura 47:36

Oh, thank you very much. It was really really nice to speak to you.

Intro 47:47

Discover how to heal your brain after stroke go to recoveryafterstroke.com.

Intro 47:57

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Intro 48:14

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Intro 48:30

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Intro 49:13

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