



# Supporting you and your child

**IM**, irwinmitchell



## Contents

- |  |                                      |
|--|--------------------------------------|
| 4 Your team of experts                 | 16 Protecting your child's future    |
| 6 Disability and educational rights    | 18 Statutory Wills                   |
| 8 Education, health and care plans     | 20 Court of Protection               |
| 9 Medical law and negligence           | 22 Personal Injury trusts            |
| 10 Support after a Birth Injury        | 24 Financial planning for your child |
| 11 Support after a Personal Injury     | 26 What else can we help you with?   |
| 12 Road Traffic Collisions             | 28 Useful contacts                   |
| 14 Support and Rehabilitation Services |                                      |

If your child lives with a disability or has suffered from a serious injury or illness, the emotional and physical impact can be life-changing. We're here to help you access the best medical care, rehabilitation and support.

If you believe there may be a medical cause for your child's disability, serious injury or illness, then we're here to investigate your case. We'll also assess how this has impacted your lives and look into the support that's needed now and in the future. Early compensation payments may be available if you're out of work to care for your child, if your child needs immediate treatment or adjustments are required to your family home.

We'll offer guidance on educational, social and medical rights, to help your child live a fulfilling and happy life. We also have close relationships with organisations and charities that can offer you and your family further support.

“

I felt I really had someone fighting my corner. Fingers crossed I don't need to make another injury claim, but if I ever did I'd go straight to Irwin Mitchell.

**Sally**  
5\* Trustpilot review



This information relates to the law and procedures in England and Wales. Please contact us if you need advice about the law and procedure in other legal jurisdictions.

0800 023 2233

## Your team of experts

We've supported families with children who have disabilities, illnesses and serious injuries for many years. By building a relationship based on openness, trust and honesty, we're best placed to provide the expert advice you need.

We understand how concerned you may be about the level of care and support your child has or is receiving and can offer help and advice every step of the way. All families should have access to the right legal support to ensure a child's needs are addressed – there should be no exceptions.

We pride ourselves on offering you the highest quality legal advice and are here to help whenever you need us.



# Disability and educational rights

Your child's rights should be upheld by those around them, particularly those providing their care, support and education.

## If you don't feel that this is the case then we can help with:

**Community care services** – helping you get all the care and support you need for your child

**Continuing healthcare** – ensuring your child receives the healthcare they need to live in their community on their return from hospital

**Education** – guaranteeing your child the education they deserve.

## Care and support

The effect of caring for a disabled child shouldn't be underestimated. Everyday tasks can appear daunting and unmanageable, especially in the early months.

You may need guidance on how to approach social services to obtain the care and support your child needs in both the short and long term. Alternatively, you may need someone to act as an advocate on your behalf to make sure your child receives the care that will fully meet their needs.

If your child's in need of longer term care or support, your local social services department or Clinical Commissioning

Group (CCG) can be contacted to carry out an assessment and provide a care plan detailing the support they feel would assist your child.

On occasions the care assessment team may fail to recognise the extent of your child's individual needs. If that happens, we can help you challenge the assessment and funding your child receives to ensure they have access to the services they're entitled to.

Our specialist Public Law & Human Rights team has a wealth of experience in providing advice and assistance about community and healthcare law.



## Education, health and care plans

Statements of Special Educational Needs (SEN) for children in schools and young people in further education have been replaced with a single combined Education, Health and Care (EHC) plan.

An EHC plan is for children and young people from birth, up to the age of 25. This extends the current age of eligibility for those with a statement of SEN, and still in education, from 16 to 25. EHC plans include information about health, social care and educational needs and must be prepared and maintained by the local authority, including annual reviews and re-assessments.

Everyone deserves the right to a good education, whether this is specialist teaching, therapy or one-to-one assistance.

### You may need help with:

Obtaining an EHC plan of a child's educational, health and care needs (formerly known as a SEN)

Refusals to issue an EHC plan, or challenging the content of an EHC plan

Refusals to reassess a child's educational, health and care needs

Decisions not to maintain or to cancel a child's EHC plan

Appealing an EHC plan, including representation at tribunals

Refusal to allow your child access to your preferred school or nursery.

## Medical law and negligence

Medical treatment in the UK is generally of a high standard, but there are occasions where an unacceptable standard of medical care occurs.

When this happens during or after a child's birth, it can leave families having to cope with lifelong disabilities and on-going complex care needs. Everyone naturally wants answers, as well comfort in knowing that lessons have been learnt and the same mistakes will be avoided in the future.

It may be that the hospital poorly managed your pregnancy or the birth of your child. They could have failed to reach the correct diagnosis in time, ignore or delayed commencing necessary treatment. Your child's GP could have failed to pick up the early stages of an illness and delayed your child's referral to a hospital for treatment, which lead to a worsening of their symptoms and potentially, a permanent injury.

If your treatment was provided by the NHS, a private hospital or by your GP then you may be able to bring forward a formal complaint, as well as a claim for compensation. The legal investigation process requires information to be gathered. This usually involves obtaining medical records and seeking independent evidence from expert medical practitioners.

Compensation isn't a windfall. It's a way of providing financial support to look after your child and their ongoing care, specialist aids, equipment, educational and rehabilitation needs.

If your child has ongoing treatment at the hospital or with the clinicians where the negligence occurred, this shouldn't stop you from investigating a claim. The hospital clinicians continue to have a duty of care to provide the best treatment and care to your child.

## Support after a Birth Injury

From years of experience working with families who have suffered pregnancy and childbirth problems, we understand how difficult it can be.

If you're concerned about the standard of medical treatment your child received, there are steps we can take to find answers for you and your family.

### We can offer legal support and guidance for:

**Ante-natal errors** – despite highly advanced scans, medical professionals can miss or even misdiagnose problems during pregnancy. Errors made at this stage can have consequences, including misdiagnosed miscarriage, major unexpected conditions or stillbirth.

**Errors during birth** – damage from medical instruments, anaesthetics or inadequate care can cause serious gynaecological damage to mothers and injuries to babies including cerebral palsy, brachial palsy (Erb's palsy), brain injury, facial paralysis, spinal injury, fractured bones and perinatal asphyxia.

## Support after a Personal Injury

Children have accidents on a regular basis but fortunately these are usually little bumps or minor mishaps that we all associate with growing up.

There's a duty to take extra care when dealing with children. If a child is injured at school, or when out and about, it might be that the accident is someone else's fault. If someone has failed to do something they should, or not acted in a proper and professional manner, there may be a claim for compensation.

When a child is injured, any claim for compensation should be dealt with by a specialist. Accidents and injuries can be complex, and different considerations apply when investigating and pursuing a claim involving a child.

It's important that you have specialist support to ensure your child has access to the right sort of treatment and rehabilitation to make their long term future as secure and fulfilling as it can be.

### **Criminal injuries**

If your child's injury is the result of abuse or a crime, you can make a claim from the Criminal Injuries Compensation Authority (CICA).

The CICA is a government body created to compensate innocent victims of crime, it investigates claims by gathering witness statements, police reports and any other relevant documents.

Sometimes the CICA may decline or make an inadequate offer of compensation. If this happens, our personal injury specialists can advise you on the possibilities of seeking a review of the decision.

## Road Traffic Collisions

There are many myths about when there is, and isn't, a claim for a road traffic collision, which can often lead to confusion at a time when clarity is needed.

When a child walks or runs into the road and is knocked down by a car, the police will often tell parents that the collision was unavoidable, or that it was the child's fault for running into the road. The police investigate what has happened from a criminal perspective, which is very different to what needs to be considered for a personal injury compensation claim. The police may not prosecute the driver, but that doesn't mean there isn't a claim for compensation.

Many people believe that if a child's injured, and they're not wearing a seatbelt

or in a suitable child seat, then you can't make a claim. This isn't the case.

Families also worry about making a claim when a child's injured in a car being driven by a parent or family member. While it can feel uncomfortable making a claim against a relative, it's the driver's insurance company that deals with the claim on their behalf.

Finally, it's often assumed that a claim can't be made if a driver isn't insured, but these cases can succeed, and it's rare that there isn't a case.



Irwin Mitchell came recommended to us as the best in the country and they really lived up to that expectation.

**Marilia**  
5\* Trustpilot review



## Support and rehabilitation services

When it comes to a serious injury or disability, families often need practical help and advice to pursue a legal claim.

You may find yourself dealing with a wide range of unfamiliar services such as hospitals, social services, rehabilitation units and the benefits agency.

It can be overwhelming and difficult to understand the function of each service and how best to communicate with each organisation. Our Client Liaison team can help you and your family make sense of these services for the benefit of your child.

### Our approachable team can assist with:

Assessment of immediate and longer term needs of your child

Highlighting areas of need and co-ordinating appropriate services and support for your family

Support and education for your family when considering your child's lifestyle as a consequence of their injury or disability

Liaising with local services, professionals and agencies about your child's immediate care and longer term needs

Practical support with day-to-day issues, such as budgeting, useful coping strategies and support with your child's ongoing rehabilitation

Monitoring the progress of rehabilitation to maintain a consistent and co-ordinated approach

Advice and assistance with benefit applications, reviews and appeals.







## Protecting your child's future

If your child's suffered an injury or illness then supporting them financially, both now and in the future, will be of critical importance.

Whether you've already received compensation, or may do soon, we're here to help you look after any money you receive.

### **Making a Will**

Research suggests that more than two-thirds of people in the UK don't have a Will. Many people believe that they're too young to make a Will, or don't think they have enough money or property to make writing a Will worthwhile. But it shouldn't be viewed like this.

Preparing a Will can be a positive step. It makes things easier for your loved ones at a very difficult time, particularly if you have a child with a disability or permanent injury.

A Will removes any doubt about how your assets will be distributed, who you wish to look after your children and how you'd like your affairs to be handled.

### **For children who have a disability, a Will can be created to:**

Provide for your child in a way that won't affect their benefits and or put them at risk by dishonest people

Ensure that your children inherit from you even if your spouse remarries

Appoint a guardian to care for your children if they were to be orphaned

Reduce the amount of inheritance tax paid

Make sure that your loved ones receive all the money and property you want them to receive.

## Statutory Wills

If your child receives compensation and doesn't have the capacity to make a Will, a Statutory Will should be considered once they're 18 years old.

If you're acting as a Deputy or Attorney of a loved ones' estate, you may be involved in the process of creating a Statutory Will. These types of Wills can be complex, but we can help you every step of the way.

To make a Statutory Will on behalf of your child, you need to complete an application form and a statement to be considered by the Court of Protection. A decision is made by them as to whether the proposed Will is appropriate.

Our Court of Protection team can help with services, including Deputyships, Compensation Management, Trusts (for children as well as adults), Lasting Powers of Attorney and Statutory Wills.



## Court of Protection

If your child has grown up and isn't able to manage their own affairs, you may need to seek legal support to ensure their finances and other important decisions are managed by a Court of Protection appointed Deputy.

The Court of Protection is the legal body responsible for making decisions about the management of the finances and health and welfare matters for people who lack the mental capacity to do so themselves.

### We can support you if:

There's a dispute about what social care, residence or medical treatment is in your child's best interests

You're concerned about the ability of someone else to manage your child's affairs

You're responsible for managing your disabled child's affairs.



## Personal Injury Trusts

If your child's been awarded compensation you may find that they're no longer eligible for certain means tested benefits or funding when they reach adulthood.

To make sure that the compensation isn't taken into account when deciding whether your child's eligible for means tested benefits, and to protect your child's future, you may be able to place the money in a Personal Injury Trust when your child reaches 18.

A court may consider authorising a Trust on the child's behalf before they reach the age of 18. They'd have to be satisfied that it's in the child's best interests to do so.

Money held in a Personal Injury Trust can be accessed by trustees. There needs to be at least two trustees for a Trust to be set up. These could be the child's parent and solicitor. If your child is under 18 and a Trust is required, then one of the trustees would have to be a solicitor. Our Client Liaison team can help you and your family make sense of these services for the benefit of your child.



Irwin Mitchell were recommended because of their legal reputation and they were simply brilliant. What made the biggest difference to us was their kindness, care and understanding throughout.

**Judith**  
5\* Trustpilot review



## Financial planning for your child

If you and your child are adjusting to life with a disability or after a serious injury or illness, you don't want to worry about money as well. You need to know their compensation is going to last.

We can help you plan your future, offering you tailored financial planning and investment advice. We'll work closely with your legal specialist to ensure the best possible outcome for your child's finances both now, and in the future.

We provide financial planning to make sure you have a regular income for your child, as well as money for things like care and support, specialist equipment and home adaptations.

Our aim is to help you and your family stay financially secure, now and for the future. We treat everyone as an individual. You'll get advice that's tailored to your family's specific needs and goals.

### How can we help?

- With you every step of the way – whether pre- or post-settlement, we build long-term relationships and have over a 99% client retention rate
- Making the most of your money – we'll create a financial plan built around you and your family
- Investing for the future – we structure your investments so you have money available when you need it.

### Contact us for more information:

📞 0370 1500 900

✉ [finplanservices@irwinmitchell.com](mailto:finplanservices@irwinmitchell.com)

🌐 [irwinmitchell.com](http://irwinmitchell.com)



## What else can we help you with?

Whether it's business or personal we understand that everyone's situation is different.

If you need legal advice or support with financial planning, we're here to offer expert advice tailored to your circumstances, so you can focus on what really matters.

### We're here to help you with:

- Buying or selling a house
- Court of Protection
- Divorce, children and family matters
- Planning disputes
- Financial planning and wealth management\*
- Support with your business and employment issues
- Social, education and healthcare provisions
- Tax and trusts
- Welfare and healthcare matters
- Wills

\* Financial planning and wealth management services are provided by IM Asset Management Limited which is authorised and regulated by the Financial Conduct Authority. Its Financial Services Register Firm Reference Number is 402770.



Contact us:

📞 0800 023 2233

💻 [irwinmitchell.com](https://www.irwinmitchell.com)

# Useful contacts

We have close relationships with organisations and charities that can provide extra support when you need it most.

## **AbleStay**

A charity with the mission to provide full accessible holiday accommodation to disabled people and their families.

AbleStay  
Foolish Wood  
Bilton Lane  
Harrogate  
HG1 4DN

☎ 07767 886787  
✉ [info@ablestay.co.uk](mailto:info@ablestay.co.uk)  
🌐 [ablestay.co.uk](http://ablestay.co.uk)

## **AvMA**

The UK charity for patient safety and justice.

Action against Medical Accidents  
Freedman House  
Christopher Wren Yard  
117 High Street  
Croydon  
CR0 1QG

☎ 0845 1232 352  
🌐 [avma.org.uk](http://avma.org.uk)

## **Baby Lifeline**

A national charity which supports frontline NHS staff to prevent injuries and deaths in and around childbirth.

Baby Lifeline  
The Granary  
Fernhill Court Balsall Street  
East Balsall Common  
CV7 7FR

✉ [info@babylifeline.org.uk](mailto:info@babylifeline.org.uk)  
🌐 [babylifeline.org.uk](http://babylifeline.org.uk)

## **Brainwave**

Helping children with disabilities and additional needs to achieve greater independence by aiming to improve mobility, communication skills and learning potential through a range of educational and physical therapies.

Marsh Lane  
Huntworth Gate  
Bridgwater  
Somerset  
TA6 6LQ

☎ 0127 8429 089  
✉ [enquiries@brainwave.org.uk](mailto:enquiries@brainwave.org.uk)  
🌐 [brainwave.org.uk](http://brainwave.org.uk)

### Caudwell Children

Caudwell Children aims to change the futures of all disabled children by providing access to the therapies they need, increasing awareness and understanding to enable all children to lead an active and independent life.

Caudwell International Children's Centre  
Innovation Way  
Keele Science Innovation Park  
Newcastle-under-Lyme  
ST5 5NT

☎ 0345 3001 348  
✉ [charity@caudwellchildren.com](mailto:charity@caudwellchildren.com)  
🌐 [caudwellchildren.com](http://caudwellchildren.com)

### Child Brain Injury Trust

A charity providing emotional and practical support, information and learning opportunities for families affected by childhood acquired brain injury.

Field View  
Baynards Green Farm Trading Estate  
Baynards Green  
Nr Bicester  
Oxfordshire  
OX27 7SR

☎ 0303 303 2248  
🌐 [childbraininjurytrust.org.uk](http://childbraininjurytrust.org.uk)

### Contact

The charity supports families with disabled children, helping to bring them together and take action.

Wenlock Studios  
50-52 Wharf Road  
London  
N1 7EU

☎ 0808 808 3555  
🌐 [contact.org.uk](http://contact.org.uk)

### The Children's Trust

A charity that offers both residential and community-based rehabilitation services for children and young people with a brain injury.

Tadworth Court  
Tadworth  
Surrey  
KT20 5RU

☎ 0173 7365 000  
✉ [enquiries@thechildrenstrust.org.uk](mailto:enquiries@thechildrenstrust.org.uk)  
🌐 [thechildrenstrust.org.uk](http://thechildrenstrust.org.uk)

### CPotential

Provides integrated rehabilitation for children and young people with movement disorders.

CPotential  
143 Coppetts Road  
London  
N10 1JP

☎ 0208 444 7242  
✉ [info@cplondon.org.uk](mailto:info@cplondon.org.uk)  
🌐 [cpotential.org.uk](http://cpotential.org.uk)

### The Eden Dora Trust

The Eden Dora Trust helps families and carers of children with encephalitis when they need it most through support, information and research.

500 Charlotte Road  
Sheffield  
S2 4ER

☎ 0186 5340 376  
✉ [info@edendoratrust.org](mailto:info@edendoratrust.org)  
🌐 [edendoratrust.org](http://edendoratrust.org)



### Family Fund

The UK's largest charity providing grants for families raising disabled or seriously ill children and young people.

4 Alpha Court  
Monks Cross Drive  
York  
YO32 9WN

☎ 0190 455 0055  
✉ info@familyfund.org.uk  
🌐 familyfund.org.uk

### Group B Strep Support

A charity dedicated to working to stop group B Strep infections, including meningitis, in babies.

PO Box 203  
Haywards Heath  
West Sussex  
RH16 1GF

☎ 0330 120 0796  
✉ info@gbss.org.uk  
🌐 gbss.org.uk

### Headway

Headway is the UK-wide charity that works to improve life after brain injury by providing vital support and information services.

Bradbury House  
190 Bagnall Road  
Old Basford  
Nottingham  
NG6 8S

☎ 0808 800 2244  
✉ helpline@headway.org.uk  
🌐 headway.org.uk

### Heel & Toe

The charity provides a range of therapies to children with physical disabilities and complex needs.

40 Front St  
Pelton  
Chester le Street  
DH2 1DE

☎ 0191 386 8606  
✉ info@heelandtoe.org.uk  
🌐 heelandtoe.org.uk

### Kids

A charity providing a wide range of support services to disabled children, young people and their families. They support children with any disability from birth to 25 years of age.

✉ kids.org.uk

### Meningitis Now

Dedicated to fighting meningitis in the UK by investing in early stage research and providing support to those affected.

Head Office  
Fern House  
Bath Road  
Stroud  
GL5 3TJ

☎ 0808 8010 388  
✉ info@meningitisnow.org  
🌐 meningitisnow.org

### National Bobath Cerebral Palsy Centre

A specialist treatment centre dedicated to supporting children and families living with cerebral palsy and similar neurological conditions.

Tandy House  
Regal Way  
Watford  
WD24 4YE

☎ 0208 4443 355  
✉ contact@bobath.org.uk  
🌐 bobath.org.uk

### Pace

A charity that helps children with neurodisabilities reach their fullest potential in life.

156 Wendover Road  
Aylesbury  
Buckinghamshire  
HP22 5TE

☎ 0129 661 6973  
✉ info@thepacecentre.org  
🌐 thepacecentre.org

### Peeps

A charity that provides support to parents, families, and friends of those affected by hypoxic-ischaemic encephalopathy (HIE).

The Piccadilly Business Centre  
Aldow Enterprise Park  
Blackett Street  
Manchester  
M12 6AE

☎ 0800 987 5422  
✉ info@peeps-hie.org  
🌐 peeps-hie.org

### SCOPE

Disability charity providing practical information, emotional support and campaigning relentlessly to create a fairer society.

14 East Bay Lane  
London  
E15 2GW

☎ 0808 800 3333  
✉ helpline@scope.org.uk  
🌐 scope.org.uk

### Sense

Sense are there for everyone who is deafblind or living with complex disabilities.

101 Pentonville Road  
London  
N1 9LG

🌐 sense.org.uk

### Shine

Providing specialist advice and support for those affected by spina bifida and hydrocephalus.

Unit 4 – The Forum  
Minerva Business Park  
Peterborough  
PE2 6FT

☎ 01733 555 988  
✉ firstcontact@shinecharity.org.uk  
🌐 shinecharity.org.uk

### The Sick Children's Trust

Giving families a place to stay, free of charge just minutes from their child's bedside.

4th Floor  
28-30 Worship Street  
London  
EC2A 2AH

☎ 020 7638 4066  
✉ info@sickchildrenstrust.org  
🌐 sickchildrenstrust.org

### Twins Trust

Supporting parents through every milestone of their journey with twins, triplets or more.

Manor House  
Church Hill  
Aldershot  
Hants  
GU12 4JU

☎ 0125 233 2344  
✉ enquiries@twinstrust.org  
🌐 twinstrust.org

### UK Sepsis Trust

A charity to raise public awareness, educate health professionals and support those affected by sepsis.

Azzurri House  
Business Park  
Walsall Road  
Walsall  
WS9 0RB


☎ 0800 389 6255  
✉ info@sepsistrust.org  
🌐 sepsistrust.org

### WellChild

A national charity giving seriously ill children, young people and their families the best chance to thrive at home.

Office 23, Sunningend Business  
Centre  
22 Lansdown Industrial Estate  
Cheltenham  
Gloucestershire  
GL51 8PL

☎ 0124 253 0007  
✉ info@wellchild.org.uk  
🌐 wellchild.org.uk

 0800 023 2233

 [irwinmitchell.com](https://www.irwinmitchell.com)



Irwin Mitchell LLP is authorised and regulated by the Solicitors Regulation Authority.

IRW061

SIV-B-2007