



# Duncan McNair

**Year of Call:** 2003

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## Personal Injury

Duncan acts for both claimants and defendants in all elements of personal injury law including serious road traffic accidents, occupiers' liability, employers' liability and high value claims. He often advises in complex disputes requiring extensive schedules and involving challenging causation issues.

Duncan has particular expertise in employers' liability, specifically cases involving accidents at work, where his background outside law and his degree in physics provide a particular insight and skill when dealing with technical expert evidence.

Duncan frequently appears and advises in cases about injuries sustained abroad, both from accidents and disease. These include road traffic accidents and accidents at hotels or other premises, often with very serious consequences. Disease claims include both generic food poisoning and cases with identified pathogens such as cryptosporidium or norovirus, often involving significant numbers of claimants. Many cases fall under the Package Travel etc. Regulations 1992; others proceed in the UK against domestic or foreign defendants.

Taking a practical and unflinching approach to risk assessments in marginal CFA cases, Duncan is not afraid to run cases where prospects are less than guaranteed.

He also has experience advising and representing parties at Inquests and the Criminal Injuries Compensation Scheme.

### Cases from the last 5 years include:

- **D v M:** Quantum assessment. Claimant pedestrian run over by 4x4 and suffered pelvic fracture; liability admitted. Should have made a reasonable recovery but instead was left with severe disability arising out of a chronic pain condition. Lost her Navy career and pension, was left with little residual earnings capacity. Case gave rise to complex issues of causation and quantification of Navy earnings and pension. **Settled for £1,322,000 less CRU and interims.**
- **W v T:** acted for claimant who stumbled over poorly-compacted backfill where a utility company had dug a trench. It denied liability but Duncan pleaded the surprising but effective application of the CDM regulations. Claimant suffered injury to her leg leading to amputation. Defendant raised complex medical causation issues as claimant suffered diabetes and had a serious fracture to the same leg one year previously; alleged that index accident did not cause loss of leg. Both liability and causation issues settled in claimant's favour for **lump sum of £500,000.**
- **B v B:** Acted for claimant, pillion passenger who suffered serious injuries in a motorcycle collision where the driver, her fiancé, died in collision with a bus. Indemnity issues regarding driver's failure to notify insurer of modifications. Claim ran against fiancé's estate, the bus company and fiancé's insurer under Article 75. Liability and indemnity issues eventually resolved in claimant's favour. Injuries included moderate head injury and significant pelvic fracture, though the claimant returned to work and independent living. **Settled for £150,000.**
- **G v a motor insurer:** acted for a passenger who claimed damages for loss of the chance of a career in the armed forces. This required complex calculations as to the value and chance of different factual scenarios, which Duncan resolved by developing an IT-based solution.

### **Settled for £135,000.**

- Significant quantum issues included lost earnings: claimant was in the process of setting up a business at the time of the accident and we had to reconstruct his potential income from limited evidence. The claimant's PTSD complicated matters because he was prone to entering a dissociative state in moments of stress, which required careful and sensitive handling.

The case settled after a JSM for **£105,000 plus CRU of approximately £20,000.**

- **S v L:** Acted for young claimant in claim for traumatic brain injury suffered in road traffic accident. Ongoing complaints of severe fatigue, concentration problems and personality change; claimant was by now in university, managing her course, but requiring substantial extra effort. Experts for both sides (neuropsychologists and neuropsychiatrists) disagreed as to whether brain injury was moderate, with cognitive changes arising from physical damage, or mild, with cognitive changes arising out of post-concussion syndrome and psychiatric factors. If the latter, the experts disagreed about the likely prognosis. **Claim settled for £95,000.**
- **S v G:** Acted for middle-aged claimant in claim arising out of moderate road traffic accident with moderate physical injuries. Claimant suffered devastating post-traumatic stress disorder which arose after the accident, but the content of his disorder related to sexual abuse he suffered as a small child. There were substantial causation issues: our expert said that, but for the accident, the claimant would not have developed the psychiatric symptoms, regardless of their subject matter; defendant's expert said that the claimant would have developed them at some time in any event.
- **B & M v D:** Acted for defendant's insurer in fatal motorcycle accident in which defendant suffered paraplegia and his pillion passenger died when a vehicle ran over her. The driver and passenger of the other vehicle sued the defendant, claiming psychiatric injury but not physical injury. Advised on the law on causation, taking account of the criteria for recovery of psychiatric injury as a primary victim on the basis that the claimant was an 'unwilling participant' who had unintentionally caused another person's death. The driver and passenger were in very different legal situations because the driver was the unwitting cause of death but the passenger, probably, was not. Both claimants had pre-Jackson funding arrangements and the insurer made an economic settlement.
- **Stephens v Braham:** Duncan's client was a motorcyclist who suffered severe injuries when overtaking a car turning right at a junction. Two independent witnesses gave evidence that the car had been signalling right for some time before the turn. Client's Part 36 offer was 50/50 and other side's was 75/25 against. At a hard-fought three-day liability trial the judge found 50/50, matching Duncan's Part 36 offer.
- **Tucknott v Bridgend CBC:** acted for a cyclist who fell as a result of a defective bridge surface on a cycle path. He sustained a serious femoral fracture with life-changing consequences. The defendant fought the case on complex arguments as to the status of the path: it argued the path was not a public highway at the accident locus, because the order creating it designated a different route. After cross examination of the defendant's surveyor the judge accepted Duncan's arguments and found the path to be on the public highway. Judgment on liability for claimant.

## **Recommendations**

Duncan McNair is an experienced barrister who acts for claimants and defendants in a wide range of personal injury claims. He is particularly experienced in the handling of employers' liability cases involving accidents at work and claims arising from RTAs.

"Duncan is always prompt at providing detailed and reasoned advice. Clients find him approachable and knowledgeable."

"Duncan is quick as lightning; his turnaround times are the fastest I have ever seen from any barrister. He is exceptional in court and takes no prisoners."

### **Chambers UK 2025/Personal Injury Western Bar**

Strengths: "Duncan is an extremely helpful barrister with strong advocacy skills."

### **Chambers UK 2024/Personal Injury Western Bar**

Strengths: "He is pragmatic, extremely commercial, yet knows when to fight. He is excellent."

"Duncan is a very enthusiastic, strong and reliable advocate."

**Chambers UK 2023/Personal Injury/Western Bar**

Strengths: "Sees the issues very quickly and is very robust and no-nonsense. He gets excellent results."

**Chambers UK 2022/Personal Injury/Western Bar**

Strengths: "He is very incisive and able to cut through the most problematic of cases."

**Chambers UK 2021/Personal Injury/Western Bar**

Strengths: "He is very approachable, excellent with clients and gives very sensitive and realistic advice." "He is extremely proactive, always available and turns papers around very quickly."

**Chambers UK 2020/Personal Injury/Western Bar**

"His advocacy and cross-examination skills are very good, as is his paperwork." "He's very personable, turns paperwork around quickly and puts clients at ease."

**Chambers UK 2019/Personal Injury/Western Bar**

'Duncan has a forensic eye for detail, a quick turnaround of paperwork and is an excellent advocate.'

Duncan McNair is another key name of note, focusing exclusively on surgical negligence and is regarded for his 'thorough and insightful paperwork'.

**Legal 500 2025/Clinical Negligence/ Western Circuit/ Leading Juniors**

'Duncan is exceptionally bright and very commercially minded. He can immediately identify a problem and knows how to fix it. His advice is always straight to the point and very robust.'

'A highly experienced and skillful advocate', Duncan McNair continues to excel in the field, with consistently impressive work on catastrophic cases, particularly those caused by road traffic and work accidents.

**Legal 500 2025/Personal Injury/ Western Circuit/ Leading Juniors**

'Duncan provides robust advice and sees the nuances in every case - he is very good on his feet and excellent with clients too.'

**Legal 500 2024/Personal Injury/ Western Circuit/ Leading Juniors**

Duncan McNair is acknowledged in the **Legal 500 2023/Personal injury/Western** edition as a Leading Junior.

Duncan McNair is acknowledged in the **Legal 500 2022/Personal injury/Western** edition as a Leading Junior.

'Duncan is technically skilled, swift-thinking and straight talking; being able to identify key issues at an early stage and apply practical solutions to proactively progress difficult cases.'

"Duncan McNair has particular expertise in employers' liability, specifically cases involving accidents at work."

**Legal 500 2021/Personal injury – Leading juniors**

'Develops great rapport with clients'

**Legal 500 2020/Personal injury and clinical negligence – Leading juniors**

'A first-class cross examiner.'

**Legal 500 2018/19/Personal injury and clinical negligence – Leading juniors**

'He has skills beyond his years of call.'

**Legal 500 2017**/Personal injury and clinical negligence – Leading juniors

'He provides excellent paperwork, advice and exceptional advocacy skills'

**Legal 500 2016**/Personal injury and clinical negligence – Leading juniors

'Always efficient and helpful'

**Legal 500 2015**/Personal injury and clinical negligence – Leading juniors

'Unflinching in the face of difficult issues.'

'A talented advocate'

**Legal 500 2014**/Personal Injury and Clinical Negligence.

#### **Client Testimonials**

A Court of Appeal judge commented to Duncan McNair in a recent application for permission to appeal in a personal injury case: "(The client) has been lucky to have you as his advocate".