Duncan McNair



Year of Call: 2003
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Clinical Negligence

Duncan has a burgeoning clinical negligence practice involving issues of limitation and knowledge, consent and negligently performed surgery, including in particular cosmetic surgery. His advisory work is very highly regarded and he is one of the few practitioners in this field to have direct experience of clinical negligence litigation all the way through to judgment.

Recent cases:

- C v an NHS trust [2014]. Duncan acted for a claimant who experienced severe complications (including a lifelong colostomy) when a laparoscopic abdominal procedure went wrong. The defendant raised vigorous disputes on breach of duty and causation, but settled for 85% of full valuation a matter of days before trial in the High Court.
- E v Dr A [2012]: Duncan acted for the claimant in a six-day trial on the issue of the true extent of informed consent in elective surgery. His opponent was a notable silk with extensive experience of clinical negligence. Duncan succeeded and the defendant failed in his application for leave to appeal.

Before joining the Bar Duncan had a successful career as a recruitment consultant, which provides him with useful and practical experience in the commercial aspects of litigation and expectation management.

Costs
Duncan has extensive experience in civil costs, both pre and post Jackson reforms. He has conducted numerous detailed assessments in the SCCO, the county courts, and since Jackson has also conducted numerous costs and case management conferences. He advises and represents clients on high valued bills and Form Hs, both on CFA cases and on private client cases.
Duncan has a broad litigation practice, which enables him to apply his experience of running a case to technical costs points.

Recent cases:

- Advising a road traffic insurer on whether Article 75 of the MIB agreement allowed it to avoid paying costs for which a claimant was insured
- Advising and representing an after-the-event insurer joined to proceedings for the purpose of a non-party costs order with regard to conduct in negotiations
- Advising an insurer on the merits and procedure in a case where the litigant obtained a costs order against a bankrupt but insured individual where the bankrupt's insured repudiated indemnity
- Broadhurst v Tan: instructed by defendant in circuit judge appeal on an important point of principle under the new fast-track fixed costs regime. Should the court oust the fixed costs regime when the claimant gets an award of indemnity costs? Or does an award of indemnity costs make no difference, as the costs are fixed? Resolved in favour of defendant
- Kandasamy v Sohel: circuit judge appeal on pre-action protocol in low-value personal injury claims. Where a claimant is entitled to withdraw from the protocol because the defendant declined to make an interim payment, but the claimant

serves notice out of time, is the notice still valid.

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".