

KINGS CHAMBERS A SET APART FROM THE REST



Legal Thought Leaders

DEBRIEF: A Kings Chambers Podcast Factsheet

[Darnley v Croydon Health Services NHS Trust \[2018\] UKSC 50](#)

The defendant NHS Trust has been held to be liable after the claimant attended A&E with a head injury. He was told by a receptionist that he would have to wait 4 to 5 hours to be seen whereas he would have been seen within 30 minutes. He left after 19 minutes and went home where he collapsed suffering from permanent and serious brain injury.

The Supreme Court overturned the majority decision of the Court of Appeal.

The Supreme Court held that it was well established that an NHS Trust running an A&E department had a duty of care to people seeking medical assistance from the department before they actually received treatment. Once the claimant had been booked in he became a patient of the Trust. It did not matter who was performing the role – whether medical or non-medical personnel – there was a duty of care.

By providing completely inaccurate information about waiting time, when it was foreseeable that a patient might rely on that misinformation to decide whether to stay or leave, there was a breach of the duty of care. The standard to be expected was that of a competent receptionist. The court seems to have set out a positive duty to provide reasonable accurate information about waiting time, perhaps by the provision of written material or verbally.

On the findings of fact by the trial judge, HHJ Robinson, the claimant left because of the expected waiting time he had been given and, but for the breach, would have stayed and been seen within 30 minutes. He would have collapsed in any event but would have been in hospital, would have been transferred to a specialist unit and would have undergone surgery that would have spared him most of his neurological injuries.

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Judgment Resources

- The Supreme Court judgment can be found at the [Supreme Court's website](#) or on Bailii [here](#)
- The Court of Appeal's decision is at [\[2017\] EWCA Civ 151](#)
- The first instance judgment of HHJ Robinson is at [\[2015\] EWHC 2301 \(QB\)](#)
- NICE Guidance (since replaced) <https://www.ncbi.nlm.nih.gov/books/NBK53050/>

Cases referenced in the Podcast

- McCauley v Karim and Croydon Health Services NHS Trust [\[2017\] EWHC 1795](#)
- Kent v Griffiths [2001] QB 36
- Michael v Chief Constable of South Wales Police [\[2015\] UKSC 2](#); [\[2015\] AC 1732](#)
- Sherratt v Chief Constable of Greater Manchester Police [\[2018\] EWHC 1746 \(QB\)](#)

Speaker Profiles



Nigel Poole QC

Nigel is ranked as a leading QC by Chambers UK and the Legal 500. He is Head of Kings Chambers and sits as a Deputy High Court Judge and a chair of the Bar Tribunal and Adjudication Service. He has appeared in the Supreme Court and Court of Appeal. He has given many lectures and seminars around the country on subjects including human rights, loss of earning capacity and proving reduction in life expectancy.



Helen Mulholland

Helen is an accomplished and highly regarded practitioner, who undertakes complex and high value work. Helen practices predominantly in clinical negligence, with a particular interest in issues of mental capacity and mental health. She prosecutes and defends clinical negligence claims, and represents interested parties at the coroner's court.



Richard Livingston

Richard specialises in all aspects of Personal Injury and Clinical Negligence work. His practice encompasses injuries of the utmost severity and he regularly acts alone in cases where the value is pleaded up to £1,000,000. Richard has developed a substantial reputation in the field of Occupational Disease and is regularly instructed by Claimants and Defendants alike. He is on a number of Insurer's panels and regularly undertakes limitation trials and has lectured extensively on the subject.

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