

## Sydney Chawatama

Call: 1994



Sydney Chawatama specialises in clinical negligence and personal injury, acting for Claimants and Defendants. His work in these areas includes complex high value claims, from initial advice to settlement meetings and trial. He has acted in several birth injury and catastrophic PI claims arising out of road traffic accidents in the High Court and Court of Appeal.

Sydney has a broad practice which covers the Court of Protection, professional discipline, costs, mental health law, inquests and child abuse compensation law. He has a developing practice in international commercial and investment arbitration and is a Fellow of the Chartered Institute of Arbitrators.

## Clinical Negligence

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Sydney accepts instructions on behalf of claimants and defendants involving all aspects of advisory work and litigation. He has extensive experience of claims arising from across a wide spectrum of medical practice including brain and spinal injuries, GP, Obstetrics & Gynaecology, Orthopaedics, ENT, Oncology, Nursing & Midwifery, Vascular surgery, Cardiology, Neurosurgery, Neurology, Dentistry, Respiratory medicine, Infectious diseases, Ophthalmology and Psychiatry.

### Selected Cases

- **Re C:** Alleged negligent mismanagement of an ankle burn, which ultimately resulted in a below-knee amputation. (2022)
- **Re A:** Fatal accidents claim arising out of a late term termination. The Claimant suffered a massive post procedure haemorrhage, which was not recognised. (2021)
- **Re B:** Fatal accidents claim. Alleged failure to consider a cardiac cause for chest pain, institute investigations and make appropriate referral. (2022)

- **Re T:** Alleged mismanagement of a skull base tumour. Raised *Montgomery* consent issues. Settled for a seven-figure sum. (2022)
- **Re A:** Inner ear surgery resulting in complete deafness in that ear, facial palsy, imbalance, dysarthria and dysphagia. Settled for £750,000. (2021)
- **Re B:** Brachial plexus birth injury. Liability compromised at 80/20 in Claimant's favour. Settled for £1m gross. (2020)
- **Re C:** Fatal Accidents claim arising out of treatment for Hodgkin Lymphoma and alleged failure to diagnose and treat an Aspergillus infection of the lungs. Experts from four disciplines instructed by each party. (2021)
- **Re D:** Claim arising out of negligent management of kidney donor transplantation, resulting in transplant pyelonephritis, fungal septicaemia, rejection of the donor kidney and a transplant nephrectomy. (2021)
- **Re AB:** Missed fourth degree perineal tear during child birth. C required multiple surgical procedures including: examination under GA, loop sigmoid colostomy, repair to rectovaginal fistula and overlap sphincter repair, evacuation of perineal haematoma, closure of loop colostomy, caesarean section for second child and z-plasty procedure. Left with permanent faecal incontinence. Also suffered an Adjustment Disorder and Moderate Depression. Earning capacity reduced and restricted employment opportunities. Liability admitted. Settled for £500,000. Acted for Claimant.
- **RE S:** Cauda equina. Paraplegia. Causation denied. Settlement £1.2m. November 2018. For Claimant.
- **Re R:** Claim for alleged negligent psychiatric treatment and human rights claim for alleged wrongful seclusion. LAA issued a 'show cause' notice and during funding embargo claim automatically struck out for failure to pay trial fee pursuant to CPR 3.7A1 (7). Had been listed for 6 days in the High Court. November 2018. For Defendant.
- **Re PXD:** Stroke as a result of prostatectomy in which ureter was damaged. Brain injury and hemiparesis. Injury of utmost severity requiring a full package of care. Settlement at equivalent lump sum of £5.2m. June 2018.
- **Re JC:** Thyroidectomy resulting in dissection of recurrent laryngeal nerve. Permanent tracheostomy. Settled at mediation for £500,000. June 2018.
- **Re O:** Fertility treatment. Alleged perforation of the bowel during egg retrieval leading to unrecognised and untreated peritonitis and a temporary stoma. Global settlement £235,000. June 2018.
- **Re T:** Fatal accident claim. Delay in administering prophylactic anti-coagulant following revision knee replacement surgery. Settlement £115,000. May 2018
- **Re M:** Alleged failure of anterior lumbar interbody fusion, failure to perform a decompression and misplacement of pedicle screw. May 2018.
- **Re K:** Alleged failure to detect in time fractured sternal wires and wound dehiscence following cardiothoracic surgery involving coronary artery bypass. March 2018.
- **Re P:** Spinal injury claim arising out of an alleged failure to use a non-stylettetted lumbar puncture needle on a 15 month old infant in 1982. In 2012 the Claimant was diagnosed with an epidermoid cyst at L2/3 level which, he alleged, was causally related to the lumbar puncture he underwent in 1982. Each party instructed four experts on breach and causation. March 2018.
- **Re F. Khan:** Fatal accident claim arising out of the death of a mother of two young children. She died following a third trimester miscarriage and attempt medical evacuation following a third trimester miscarriage and attempt medical evacuation following a third trimester miscarriage and an attempted medical evacuation resulting in sepsis. Settlement £500,000. February 2018.
- **Re R:** Severe drop foot arising from damage to peroneal nerve following hip arthroscopy. High Court trial March 2017. Acted for claimant.

- **Re Axx:** Catastrophic injury – deafness and behavioral changes- arising out of delay in diagnosis of meningitis infection soon after birth. Multi-million pound settlement including periodical payments. One of the first to settle after change in discount rate. Junior on behalf of Defendant Trust. June 2017.
- **Re S:** Delayed diagnosis of cervical myelopathy. Settlement July 2017. For claimant.
- **Re A:** Obstetric claim. Unrecognised severe intra-abdominal bleed following caesarean section. Psychological injury. Settled August 2017. Acted for claimant.
- **Re FR:** Dental claim arising out of removal of a bridge, resulting in alleged soft tissue injuries to neck and face. Settlement October 2017. For claimant.
- **Re O:** Hearing loss claim arising out of ear surgery. Liability succeeded on preliminary trial of consent after Montgomery. Settled November 2017. For claimant.
- **Re B:** Bariatric surgery claim alleging negligent stapling resulting in obstruction and consequent further 3 repair operations. Settled November 2017. For claimant.

## Personal Injury

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Sydney has acted in several birth injury and catastrophic personal injury claims arising out of road traffic accidents in the High Court and Court of Appeal.

He mainly acts on behalf of claimants, accepting instructions in claims arising from RTAs (including MIB claims), workplace accidents, highways, occupiers' liability and accidents abroad. Special interest in accidents involving cyclists and pedestrians.

### Selected Cases

- **ReB (2017):** brain injury sustained by elderly man when a passenger on a bus. Liability admitted and case settled for £200,000. Acted for claimant.
- **Re A (2016):** traumatic amputation of fingers caught in calendar machine. Settlement £325,000.
- **Re X. (2016):** non-recent sexual abuse of a child. Settlement £275,000.
- **Re R (2016):** RTA trial Exeter CC. Child cyclist run down. Moderate brain injury.
- **Re N (2016):** car / motorcycle RTA. Multiple fractures. Settlement £95,000.
- **Re A (2015):** child pedestrian RTA. Severe leg degloving injury. Settlement £230,000.
- **Re EJ (2015):** severe brain injury from RTA. Child pedestrian. Settlement £2 million.
- **Re. Oxford District Registry, HHJ Harris. (2014.)**
- **RE v GE.** alleged sexual abuse by father. Limitation defence succeeded and upheld on appeal.
- **Re R (2010):** RTA trial where a pedestrian was struck by bus near a controlled crossing. Brighton County Court, HHJ Hollis.
- **Re B. Settlement (2010.)**
- **Re S. Exeter County Court. Settlement (2009.)**
- **Wallsgrave v Snowflake Cat Litter (2003):** workplace accident resulting in severe upper limb injury. Settlement £700,000.
- **T Van Oudenhoven v Griffin Inns [2001] 1 WLR 1413:** junior in High Court and Court of Appeal.

# Professional Discipline & Regulation

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Sydney has represented practitioners before the MPTS (including the Interim Orders Panel), General Optical Council and Nursing and Midwifery Council. He has been instructed by the General Chiropractic Council and appeared on its behalf before the PCC.

## Selected Cases

- **Re H (2021/22)**: NMC proceedings following a conviction arising from out of work incidents. At final hearing panel found fitness to practice was not currently impaired.
- **Re L (2022)**: Proceedings concerning aesthetic specialist performing cosmetic surgery. No finding of impairment.
- **Re M (2022)**: GDC proceedings related to clinical performance.
- **Re Dr O. (2018)**: GDC initial PCC hearing representing a dentist. GDC sought a suspension order but accepted submissions on behalf of the dentist that a reprimand was the proportionate sanction.
- **Re S. (2017)**: represented a nurse at the NMC in a hearing that lasted four weeks. Her case was joined with four others arising out of the same facts. The panel found that her fitness to practice was not impaired. January 2018.
- Instructed by the GCC to represent it on a preliminary application. [2017]
- Various hearings representing different Registrants at the GOC. 2010 – 2013
- **Re Dr N, IOP (2010)**.
- **Re Dr S, Registration Appeals Panel (2011)**.
- **Dr G v Neath Port Talbot Health Board. FHSAA, (2009)**: two hearings.
- **Re Mr P. PMETB Appeal Board, (2008 and 2009)**.

## Court of Protection

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In the mental health field, Sydney has represented patients and Trusts before the Mental Health Review Tribunal (FTT). He has appeared in County Court and High Court mental health cases, including judicial review in the landmark case of TTM in the Court of Appeal.

He has developed his Court of Protection practice with regular appearances in the High Court in health and welfare cases, including several reported cases. Has received instructions from Trusts, local authorities, families and the Official solicitor on behalf of P. Issues on which he is instructed include capacity, residence, contact with relatives, deprivation of liberty and consent to treatment.

## Selected Cases

- **Re A (2022)**: Application in respect of serious medical treatment before the President of the Court of Protection. P, who was detained under the Mental Health Act, refused to the insertion of a PEG tube so he could receive adequate nutrition and hydration. He was at real risk of aspiration from his NG tube.

Application approved.

- **Re S (2020)**: Section 21A challenge to standard authorization for a DoL as S continuously objected to his placement.
- **Re E (2019)**: Instructed by NHS Trust in a serious medical treatment case to implement a treatment plan following a diagnosis of breast cancer, which P had rejected, but which would prevent the spread of cancer.
- **Re C (2019)**: Section 21A challenge to standard authorization of a DoL on substantive ground that the current accommodation was not in P's best interests.
- **Re B (2019)**: Represented Clinical Commissioning Group (CCG) in proceedings to determine residence following alleged delay by responsible CCG.
- **Re J (2018/19)**: Instructed by Local Authority in Judicial Review followed by COP application to successfully secure supported living accommodation on behalf of P.
- **Re M (2017)**: Application by LA following concerns raised by P's siblings regarding his mental capacity, living arrangements, physical health and well-being, and alleged undue financial influence from unrelated alleged carers.
- **Re B (2017)**: Instructed by Trust in application by Local Authority for the court to decide appropriate placement for a 17 year-old detained under s.136 of the MHA 1983 in an adult mental health unit.
- **Re X (2015/16)**: living arrangements and spousal contact. P had a deterioration cerebral palsy. Various hearings at COP at Oxford.
- **Re WK (2014)**: FTT, section 37/41 MHA.
- **Re PP (2014)**: FTT. Section 37 MHA. Successful challenge to diagnosis of mental disorder by patient.
- **Re BS (2013)**: FTT. Section 47/49 MHA.
- **Re SB (2013)**: decision by a patient detained under the MHA to terminate pregnancy.
- **PH v CC & Ors, COP, Baker J (2012)**: (Various hearings.
- **B v Tees, Esk & Wear Valleys NHS Foundation Trust (2012)**: FTT.
- **D v Tees, Esk & Wear Valleys NHS Foundation Trust (2012)**: FTT.
- **Re TTM (2010)**: Collins J. Judicial Review hearing (3 days) following on from Habeas Corpus application below.
- **Re TTM (2009)**: Admin Court, Burton J, 10 February. Application for writ of Habeas Corpus. Challenge based on alleged lack of consultation of nearest relative in sectioning process by social worker.
- **Re JN (2009)**: sectioned patient declining to consent to urgent surgery for abdominal cancer. Various hearings in the High Court (COP).
- **Re DU. [2009] EWHC 3504 (Fam).**
- **Re M. Sterilisation. COP, Mrs Justice Eleanor King (2008).**
- **The NHS Trust v A (a child) & Ors [2007] EWHC 1696 (Fam).**

## Costs

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Sydney has extensive experience in costs. He acted for the Defendant in Samonini, which first established a material breach of the CFA Regulations could occur despite the client in fact having no BTE. His costs work includes CFA challenges to enforceability, cost budgeting, solicitor- client costs, points of principle in detailed assessments, full detailed assessments and oral reviews of provisional assessments. Previously a contributor to Westlaw's Costs Update on detailed assessment.

## Selected Cases

- **Re C (2015)**: portal exit challenge by D at an oral review of a provisional assessment upholding C's decision to exit. Costs Officer Pigott.
- **Re B (2015)**: Cardiff CC. HHJ Keyser QC. Appeal by D2 against DJ costs order following discontinuance of claim against D1. Successfully overturned.
- **Fiona Hatfield v Lewisham Hospitals NHS Trust, SCCO, (2012)**.
- **Lucy Branston (Deceased) v Dr Francis Perez- Carral, Leeds County Court, (2011)**.
- **Jeanette De Bono v Wellcare Nursing Home, SCCO, (2012)**.
- **Re AH and Others (Costs), [2011] EWHC 3524 (COP) Peter Jackson J.**
- **Gandy v King, SCCO, Master Howarth, (2010)**.
- **Hanley v Smith & Anor [2009] EWHC 90144 (Costs) Deputy Master Williams.**
- **Poole v Parker [2008], Birmingham CC, HHJ Cardinal.**
- **Socket v DTI Sheffield CC, DJ Hill (2007).**
- **Carter-Ruck v Finn, High Court, Irwin J. (2007).**
- **Samoni v London General Transport PIQR P20 (2005).**

## Arbitration & Mediation

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Sydney has a developing practice in international commercial and investment treaty arbitration. In 2012 he was awarded the Advanced Certificate in International Arbitration by the Chartered Institute of Arbitrators after examination. He is on the arbitration panels of the Arbitration Foundation of Southern Africa, Johannesburg, and the LCIA-MIAC Arbitration Centre in Mauritius. He is a Fellow of the Chartered Institute of Arbitrators. In 2017 he was awarded a Diploma in International Arbitration by the CI Arb. He accepts instructions as Counsel and as Arbitrator, and may do so on a direct access basis in suitable local and international cases.

In December 2012 he completed an internship at the international law firm Latham & Watkins with the International Arbitration practice, during which he observed an LCIA arbitration and the preliminary stages of two ICSID arbitrations.

Africa International Legal Awareness (AILA) provides intensive courses in Investment Treaty Law and Arbitration. Sydney attended the Introductory Course in September 2013 and the Advanced Course in October 2014.

He has a particular focus on international arbitration in Africa, particularly the sub-Saharan and SADC regions, the latter with which he has close professional and cultural ties.

## Selected Cases

- Provided assistance with legal research and drafting in an ICSID investment treaty claim.
- Represented a solicitor's firm in a domestic arbitration under the rules of the CI Arb involving complex contractual issues including tendering, procurement and performance of a legal services contract.

# Inquests

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Sydney has appeared regularly at inquests mainly on behalf of families and also on behalf of NHS Trusts and defence organisations representing GPs and practice managers. Has experience of enhanced and jury inquests.

## Selected Cases

- **Re S (2023)**: Represented a Health Board in an Article 2 jury inquest. The deceased was detained in hospital under s2 of the MHA 1983. Immediately upon his discharge from the section he was allowed home on leave. The next day he was found hanging in a back garden. The jury returned a narrative conclusion. March 2023.
- **Re O (2023)**: Railway suicide of a teenager who had been suffering from an undiagnosed mental illness of a fluid and transient nature. Inquest explored whether Social and mental health services missed opportunities to review their strategies. Though there were missed opportunities, it was speculation as to whether the outcome would have been different and therefore these were not causative.
- **Re B (2021)**: Inquest into the death of a six-year old child with seven Interested Parties focussed on whether the child had died of sepsis or a rare condition known as haemolytic uraemic syndrome (HUS). The Coroner found that death had been caused by HUS. Represented a Paediatrician.
- **Re H (2022)**: Death following elective ileostomy surgery. There followed an apparent bowel obstruction culminating in a cardiac arrest and multi-organ failure.
- **Re C**: High profile inquest into death of woman following a termination of pregnancy.
- **Re S**: Six day inquest into death of an elderly woman admitted to hospital from a care home with bronchopneumonia. The care home and GP were interested parties. The Assistant Coroner rejected a conclusion of unlawful killing and did not find neglect. The police had been requested to investigate but found no evidence of any offence. January 2019.
- **Re AC**: Nine-day inquest into the death of a woman after a late stage (22 weeks) termination of pregnancy at a private day clinic, having travelled from Ireland. Within 30 minutes of her discharge from the clinic, she collapsed and died in a taxi from massive internal bleeding leading to a cardiac arrest. Read more [here](#). April 2018. Acted for family.
- **Re B (2017)**: Represented family in inquest concerning the death of a 41 year old woman who died in hospital from (at the time undiagnosed) infective myocarditis, having been admitted just 3 days earlier with suspected pneumonia.
- **Re SG (2016)**: Alleged delay in diagnosis and management of sepsis.
- **Re X (2015)**: Acted for GP at 3 day inquest. Deceased had learning disabilities. In-quest verdict quashed by consent by High Court.
- **Re F Khan (2015)**: Death following a third trimester miscarriage and attempt medical evacuation. Finding of gross failure made by Coroner.
- **Re RC (2015)**: Three day inquest.
- **Re Alastair Hosie (2010)**: Out of hours missed diagnosis of leg infection resulting in severe sepsis and death.
- **Re Baby Abbie (2010)**: Wrongful prescription of diuretic in infant. South Yorkshire Coroner's Court,

Sheffield. 17 day inquest.

- **Andrew Smith (2007)**: Five day inquest before a jury at Leicester Coroners Court.

## Sports Law

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With his strong background in clinical negligence and personal injury, Sydney is well placed to advise and represent litigants in civil claims arising out of sports injuries.

He accepts instructions (including by Public Access) for representation before disciplinary bodies and hearings conducted by arbitration in all sports.

In this regard, Sydney has a Diploma in International Arbitration and has undergone extensive training in this form of ADR.

Sydney was appointed to the pro bono panel of Sport Resolutions in February 2019. Sport Resolutions is an independent, not-for-profit, dispute resolution service for sport based in the United Kingdom. It was established by the main stakeholder groups in sport. Their aim is to provide an expert, speedy and cost effective alternative to internal appeals processes and court-based litigation. They provide sport specific arbitration and mediation services and operate the National Anti-Doping Panel (NADP) and National Safeguarding Panel (NSP). Recently, Sydney has secured a result for athletes in three Sports Law cases, which you can read about [here](#).

A keen follower of Judo and Sumo wrestling, he was selected for the Zambian Badminton team trials for the Commonwealth Games (in his youth).

## Child Abuse Compensation Law

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Sydney accepts instructions from claimants and defendants regarding child abuse compensation. He is experienced in actions against local authorities (failure to remove, residential care, foster parents), various institutions, and, since *Hoare*, against alleged abusers.

### Selected Cases

- **Re X. January (2016)**: non-recent sexual abuse of a child. Settlement £275,000.
- **RE v GE.**: alleged sexual abuse by father. Limitation defence succeeded and upheld on appeal.

## Direct Access

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Sydney Chawatama specialises in clinical negligence and personal injury, acting for Claimants and Defendants.

Sydney frequently acts on behalf of unrepresented practitioners, such as doctors and nurses, through [Direct Access](#) instruction. He also accepts Direct Access instructions in domestic and international arbitration and is a Fellow of the Chartered Institute of Arbitrators.

Visit his profile [here](#) to find out more.

## Appointments

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- International Committee of the Bar Council (2017 – present; Africa Lead 2018 – 2022)
- Moot Court Judge, Price Media Law Moot Court Competition, International Finals, Oxford University (2015 – present)
- Bar Council Law Reform Committee (member 2006 – 2017, co-Vice Chair 2017 – 2022)
- General Council of the Bar of England and Wales (elected member 2017 to 2022)
- AFSA panel of arbitrators
- MIAC neutral panel of arbitrators
- Fellow of the CI Arb (FCI Arb)
- Sport Resolutions pro bono panel

## Awards

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- Sweet & Maxwell Prize, University of Essex (1993)

## Education

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- LLB (First Class) Hons, English & European Law, University of Essex (1993)
- Diploma International Arbitration, CI Arb (2017)

## Memberships

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- BJLA
- CI Arb
- HRLA
- IBA
- PIBA
- PNBA
- MIAC (Mauritius)
- AFSA (South Africa)
- LawInSport