



CLYDE&CO

Casualty
Expertise
Overview

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Clyde & Co Newton



A unique perspective on the Casualty sector

Nobody understands the casualty sector like we do. In an increasingly challenging market, where budgets are being squeezed, where value for money is a paramount concern, and where social inflation is driving claims ever higher, we know that our casualty clients need reliable advice they can act on to succeed and grow.

Our teams aren't just legal experts; they are specialists. We understand every aspect of this sector, and combine this expertise with tailored client management services that work with you to identify potential risks and opportunities and navigate them successfully. And our preeminent UK coverage means we don't just understand the complexities and challenges in the casualty industry – we are able to provide on-the-ground advice wherever you are.

As we continue to develop technological solutions to support our clients in identifying trends and forecasting potential risks, we are committed to continuing to provide comprehensive coverage and defence capabilities across every insurance and reinsurance line. For contentious claims, our leading dispute resolution practice covers litigation and all forms of alternative dispute resolution, as well as acting for insurers in contentious regulatory proceedings.

We provide a complete range of advisory services including advising on policy wording issues, product development, funding options and recoveries. We have dedicated corporate, commercial and regulatory insurance teams working across the globe who advise clients at every stage of their development, and work closely with our employment, real estate and tax colleagues, offering you the broadest range of legal services underpinned by genuine sector expertise.

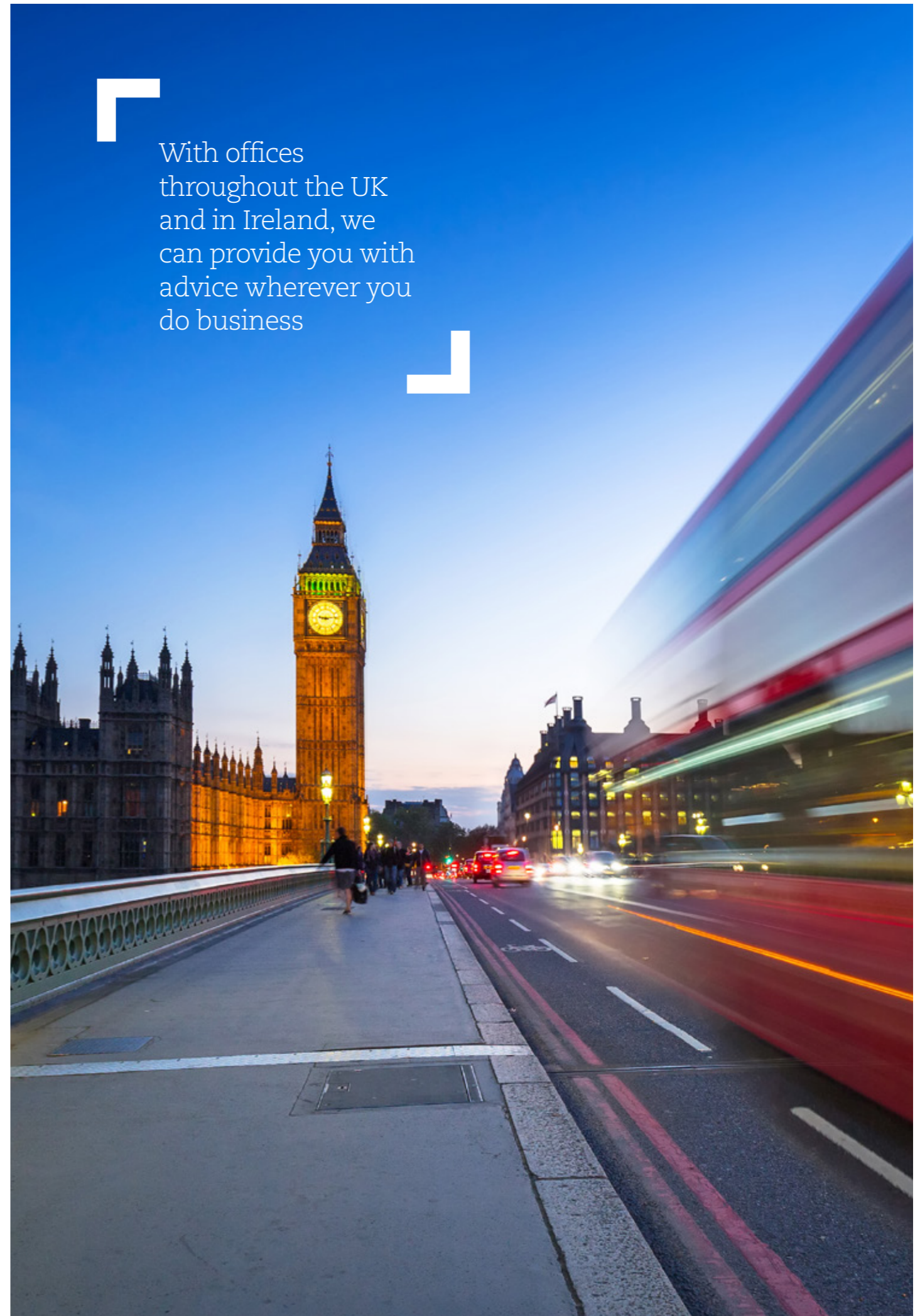
Supporting your business across the UK and Ireland

Our UK and Ireland teams provide the comprehensive support you need and expect. With offices in key commercial hubs across the region, backed by a global network, we can provide advice on local, national and international, cross-border matters.

Across our integrated regional network, we use our knowledge, experience and commercial acumen to steer clients through diverse challenges and opportunities.



With offices throughout the UK and in Ireland, we can provide you with advice wherever you do business





Abuse and Neglect

We have a victim-focused approach to the management of these sensitive claims. We are mindful of not only the reputation of our clients and the impact that these claims have on the people working in the organisations at the time the claims are brought, (many of whom are greatly distressed/upset by the allegations made), but the challenges faced by victims bringing claims of this nature.

We have a hard-earned reputation for excellence and expertise in this area, together with a proven approach of dealing with matters with sensitivity, empathy and integrity.

We work alongside clients to advise in connection with:

- Initial response to the disclosure
- Investigations and inquires
- Compensation
- Market Engagement
- Safeguarding



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Case Studies

1.

Child Sexual Abuse (IICSA):

At the Independent Inquiry into Child Sexual Abuse (IICSA), we represented faith clients in the Religious Organisations investigation – clients were from many faiths from both orthodox and liberal Judaism through to the Salvation Army. In all situations we explained the requirement of engagement with IICSA, sought to understand the key areas of concern for the organisation and then ensured the provision of requested information and hearing attendance in an efficient and focused way.

2.

Complex claims against schools:

Acting for high profile independent schools when they each faced a series of criminal trials followed by civil claims. Each had complex historic insurance positions and we worked with them and where relevant insurers to find ways to resolve the claims quickly and compassionately having regard to the impact of the abuse and the criminal trials on the claimants but also the ongoing impact on the schools, their current pupils and staff.





We are recognised leaders in representing clients who are responding to the disclosure of abuse. The abuse may be sexual, physical, emotional or neglect and may be many years ago or in the recent past.





Catastrophic Injury & Large Loss

Our catastrophic injury and large loss practice group (CLLPG) is the largest in the industry with more than 250 lead lawyers handling around 550 new large loss instructions each month.

We handle the full range of liability cases, and claims that encompass all types of injury. Our lawyers are trained and supervised to make best use of rehabilitation options, case managers, shared experts and other strategies designed to control the cost and life cycle of a claim. For most catastrophic injury claims we are instructed from "day one" to work with the client in driving the claim forward collaboratively with the claimant and the claimant legal team.

We are specialists in large loss claims, and that specialist large loss knowledge is further broken down through our Subject Matter Groups, including indemnity, cross-border, clinical negligence, criminal defence, highways, animals, public authorities and fundamental dishonesty.



Whether instructed on the day of the catastrophic event or at litigation, our aim is to provide a straightforward, pragmatic approach. We will develop a strategy with you to achieve the earliest outcome and lowest indemnity spend, from determining a liability position as quickly as possible to identifying if there are claims to defend. Where there is no defence, we develop collaborative approaches with claimant solicitors in rehabilitation and treatment to return the injured claimant to society as quickly as possible.



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Case Studies

1.

This complex, high-value case settled within a very short time – only 20 months between the accident and JSM. Settlement amount was **£12,500,000**.

The parties were focussed on an early settlement. The defendant obtained only key expert evidence and costs were therefore contained (as well as a realistic settlement reached).

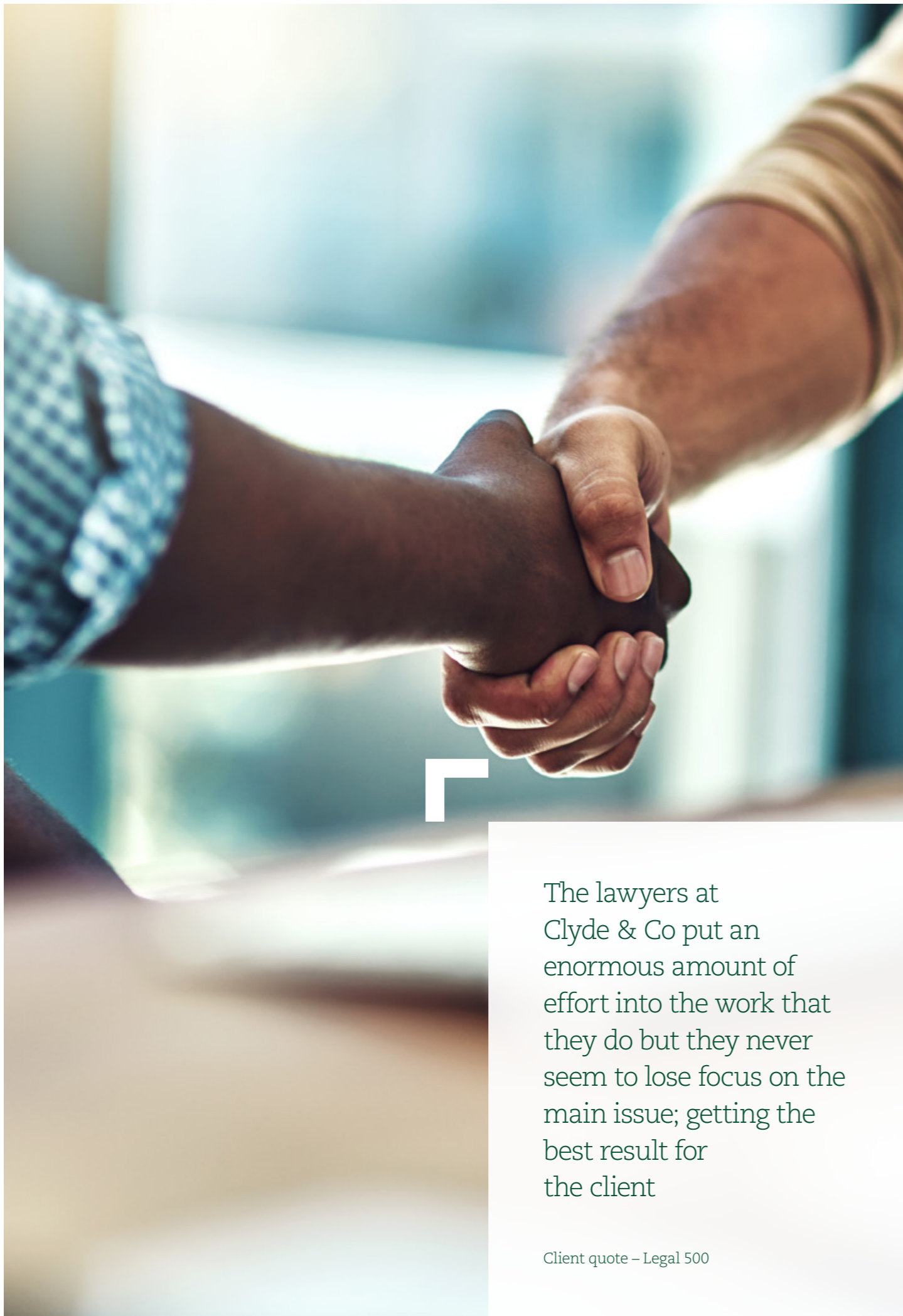
The claimant was a successful businessperson in the charity arm of a bank with a history of sporting success. He was one of only two people in the world to have used and benefited from a ReWalk exoskeleton and, whilst these are routinely opposed, the claimant was an ideal candidate. The settlement reached reflected recovery of sums for the exoskeleton.

2.

Claimant suffered a traumatic above knee amputation of one limb and a severe crush injury to her other limb when she was pinned against a wall by a car being demonstrated to her and her husband whilst visiting a Jaguar car dealership owned and run by the defendant insured.

We worked with the claimant's firm to facilitate rehabilitation and adaptation of their homes as well as making appropriate transport available. As a result, the case was resolved at a JSM (1 year and 2 weeks after the incident) for the sum of £5.3m Gross with the firm's costs also agreed at £150,000. The claim had a potential exceeding £10m.

We also represented the insured in connection with the Regulatory investigation and were able to achieve an outcome that meant no charge or fine was brought against them despite the severity of the incident.



Claims Management

Handling 1000s of claims a year in UK and Ireland, we understand the importance of having a lawyer involved in the claims from the outset.

Through our end-to-end, lawyer-led solution, we deliver an innovative and cost-effective pre-litigation and litigation service.

We provide you with one team to handle all your claims, with a single point of contact within the firm.

This team is supported by a consolidated management information portal, and an integrated case management system with secure remote access to key case information.

We have a proven track record of end-to-end pre-litigation and litigation claims services for clients maximising defensibility and costs with over £200m of claims managed under the lawyer-led solution per annum.

Our lawyer-led and client-focused approach provides you with immediate and consistent interactions your firm contact, and engagement of your preferred claims handling firm in the background as required, resulting in:

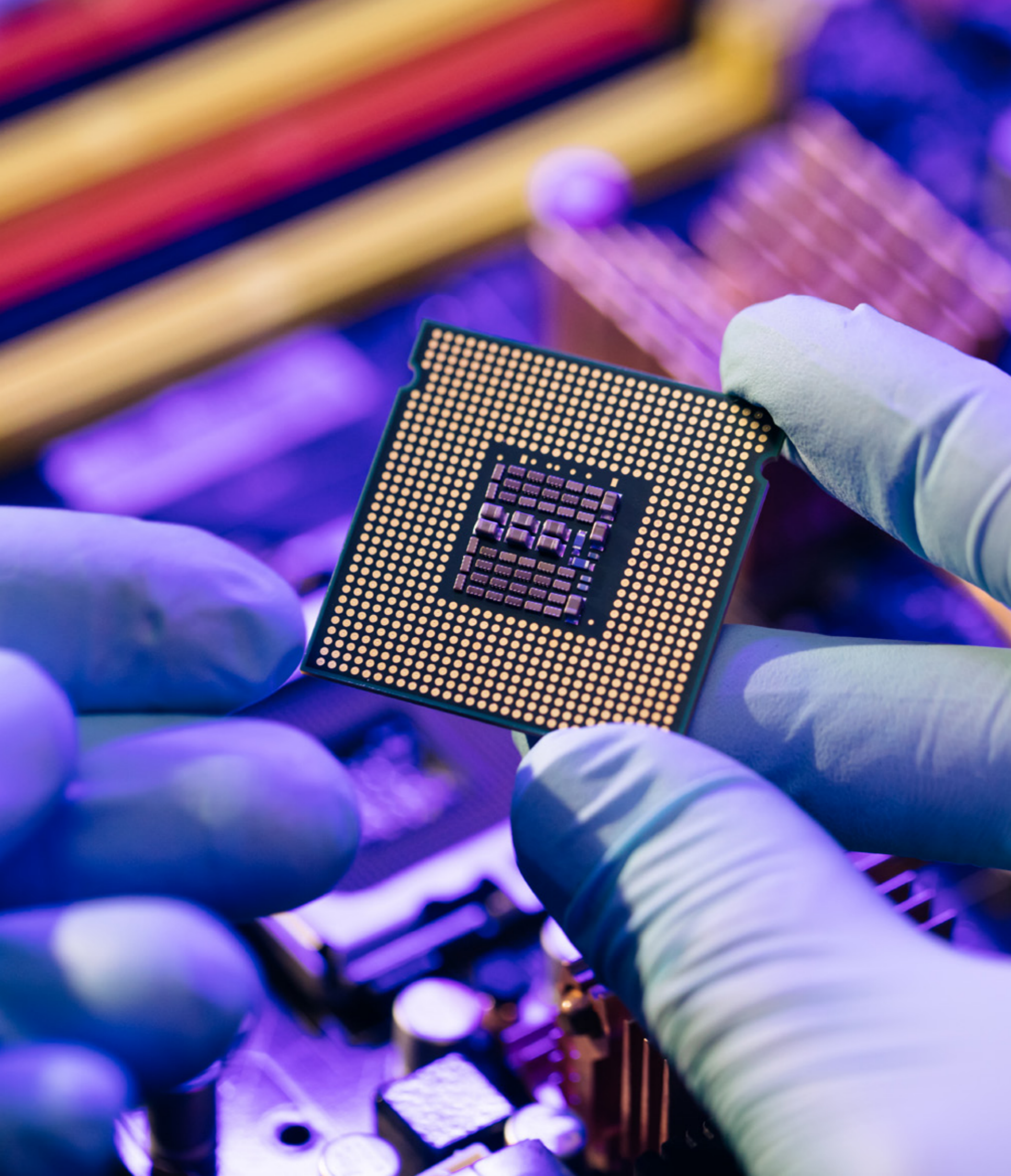
- A market leading rate of claims denials, as high as 4% for many of our corporate clients
- Reducing average claims costs for clients by 19% compared to their previous handlers when appointing Clyde & Co
- Minimising litigation, achieving a rate below 10% on average across all lines
- Achieving savings of more than £10 million per annum for our clients, against claims made

The lawyers at Clyde & Co put an enormous amount of effort into the work that they do but they never seem to lose focus on the main issue; getting the best result for the client

Client quote – Legal 500



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Costs

We cover the breadth of disputes, from arguments on portal drop outs and FRCs to multi-million pound costs claims, including a niche specialism with significant successes in securing non-party orders against claimant’s solicitors. We work with our commercial colleagues to secure security for costs.

Our costs lawyers are based nationally (in each jurisdiction) and, as such, we have the geographical reach to attend in-person hearings wherever they are listed, and provide you with local market and court knowledge.

The majority of cost hearings are undertaken in-house and, including cost and case management conferences, the team attends several hundred hearings a year. We have experience with cases at appellate level including recent success in the Court of Appeal.

We also manage with costs recoveries, preparing bills of costs often for sums in excess of £1m, with drafting of replies and advocacy at assessment.

Where we use external counsel in certain areas of strategic litigation, we have the knowledge of who is best in class and who can provide you with best value as we have worked very closely with them for many years in close collaboration. Examples include 4 New Square and Kings Chambers, who are both generally recognised as the leading sets of costs counsel.



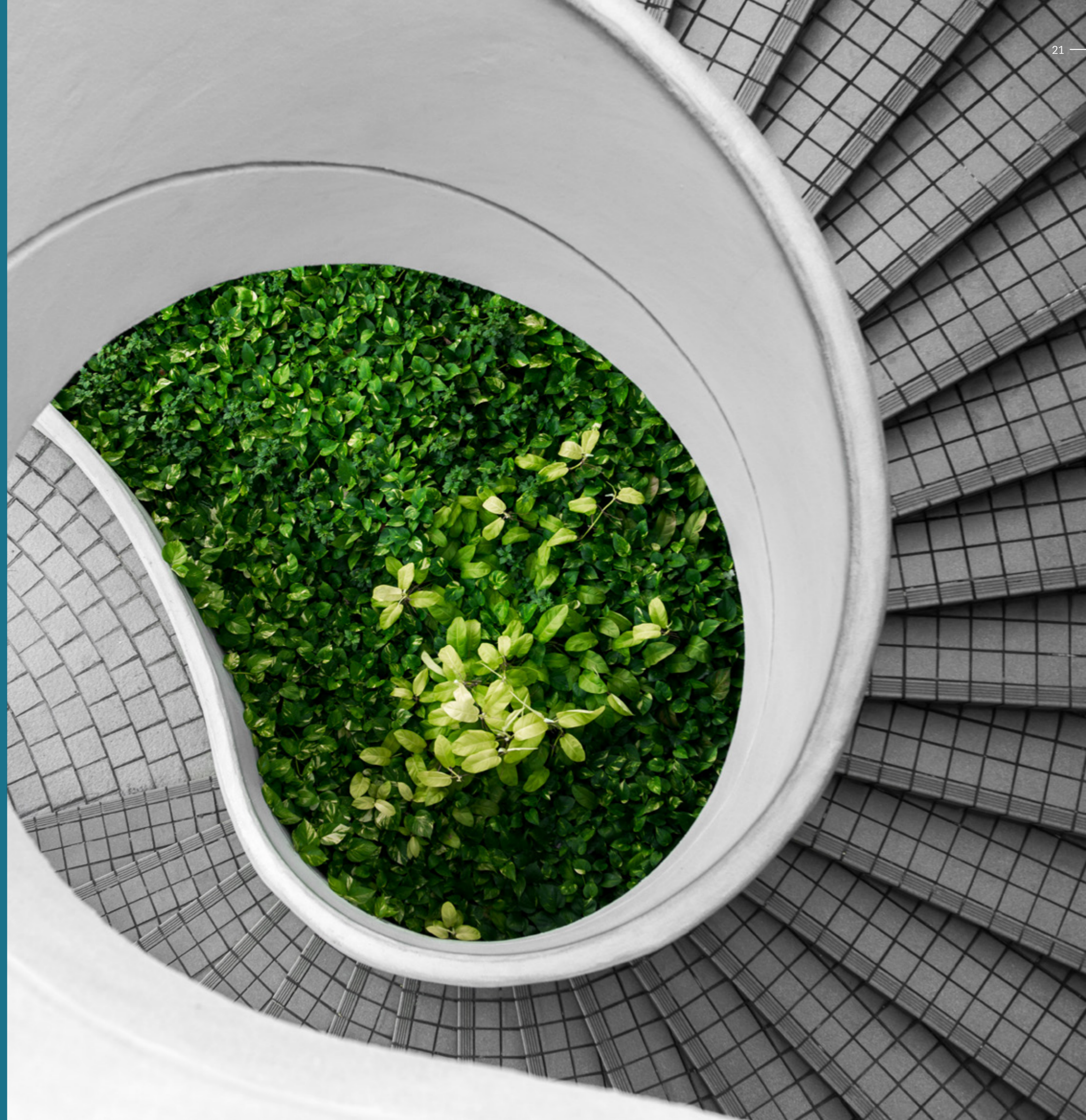
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Case Study

We successfully defended a university, then an RSA insured, in a live mesothelioma trial, where full costs were recovered.

This was the pinnacle of a successful defence strategy for the University, that in 2016 was inundated with EL and PL asbestos claims following a press release by one of the main claimant firms in Scotland, who were farming for claimants and witnesses. Not one of these claims was paid, and costs were recovered in all the litigated claims.





Credit Hire

Our Credit Hire Practice Group handles claims for many of the UK and Ireland's largest motor insurers.

Our approximately 40 dedicated lawyers manage hire claims of all types and values, meaning we can effectively deliver quality handling across a volume offering. We also have access to a pool of a further 60 credit hire trained lawyers should the volume require them.

Our focus is on proactively delivering the lowest indemnity spend whilst maintaining, monitoring and evolving agreed strategies. As such, we ensure our lawyers have an optimum case load of around 70 DA Credit Hire claims at any one time. However, we have experience in adding capacity as and when required to meet any surges and have proven "surge plan" strategies.

Scotland

Our credit hire team has a deep understanding of litigation in Scotland. Our triage, case management, predictive analytics and KYO, together with timely, proportionate, strategic advice allows us to achieve consistent, cost effective, early outcomes which control your indemnity spend.

Northern Ireland

Our NI team is comprised of leaders in their field and are influential in lobbying in respect of the future of credit hire claims. We are well positioned to receive early information about proposed changes in procedure or judicial attitude. Member of the team sit on FOIL groups, including the CRP and Protocols Sector Focus Team. We also sit on the Credit Hire Sector Focus Team driving strategies in this area.



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Case Studies

1. The hire was a primary concern pleaded in excess of £100k. Our specialist fraud team obtained copious amounts of linking/adverse credibility evidence, along with ANPR evidence showing that policyholder's vehicle was being driven on the road within 12 days of the alleged collision occurring.

Upon our instruction counsel drafted a Defence pleading fraud / fundamental dishonesty.

We knew from the outset that the claimant had no assets against which to pursue recovery. Therefore, rather than push the matter to trial for a finding of FD, the insurer to the strategic decision to make an offer to the claimant to discontinue her claim on a drop hands basis. The Claimant subsequently filed her Notice of Discontinuance, discontinuing the whole of her claim, **saving our client £175,452.53 in total.**

2. This was a complex case involving a huge claim (circa £150k) for DAMS credit hire rental charges. The matter was handled by our specialist credit hire fraud sub-team. A defence was settled making a formal pleading of fundamental dishonesty.

Using our agreed credit hire fraud tactics, we proceeded to disclosure and secured favourable court directions for release of financial documentation. The claimant struggled to comply and eventually provided disclosure that proved they were hiding accounts and using aliases.

We maintained a robust defence refusing to make or accept any offers of settlement. The claimant approached Clyde & Co in the run up trial with a drop hands offer. After consideration by the insurer of the claimant's realisable assets, this offer was accepted.



Disease Primary

We act for 13 of the top 15 UK insurers, SME's, brokers, public sector and corporate clients.

In the primary market we advise on short tail claims relating to occupational stress, asthma, dermatitis, musculo-skeletal problems, carbon monoxide poisoning and legionella infection, including managing the commercial, reputational and floodgates risks which frequently accompany such claims. We have increasingly been handling a new wave of respiratory claims relating to housing disrepair, and assessing similar risks arising from the current increase in cavity wall insulation claims.

We handle specialist risks such as chronic pain, abuse/bullying and harassment matters. Our team is able to navigate the complex and nuanced technical and policy coverage issues arising from the frequently overlapping jurisdiction of the civil courts and Employment Tribunal.

Our specialist COVID-19 team provides advice on claims defensibility and quantum strategy, as well as handling claims, relating to COVID-19 infection, including claims for Long COVID, and has created a guide specifically for handling these claims.

Few firms can match the level of specialism across disease types and the number of dedicated disease lawyers that we offer across the UK and Ireland.



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Disease Legacy

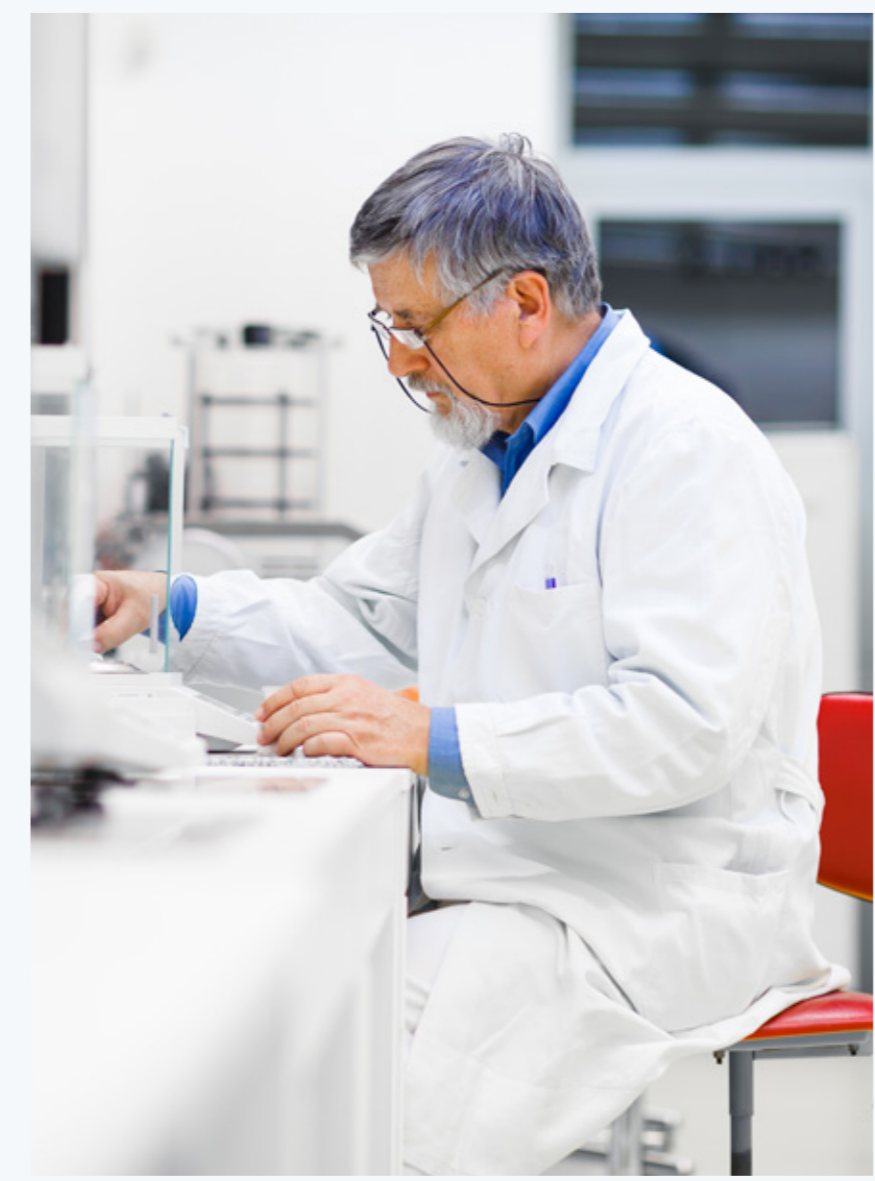
In the UK legacy market, we have been involved in many significant legal developments in relation to asbestos-related disease. We have also advised in relation to occupational cancers and other complex or novel diseases, as well as providing litigation and claims outsourcing solutions for large volumes of NIHL and HAVS claims.

We also operate an Insurance Tracing Service to mitigate the impact of missing historic EL cover, and offer technology-driven liability tools to assist in the assessment of NIHL and Mesothelioma claims.

Our disease lawyers work with insurers and other clients to provide thought leadership, KYO-driven outcomes and develop strategic approaches and solutions.

We maintain an active risk radar to identify emerging risks and develop responses our clients can act on. And our suite of market-leading technical handling guides is viewed by our clients as essential material.

- Our lawyers specialise in:
- Mental Health Claims
 - COVID-19 claims
 - MSK (Musculo-skeletal) Claims
 - COSHH Claims (incl asthma, dermatitis etc)
 - Housing Claims (CO poisoning and damp/respiratory claims)
 - NIHL and HAVS
 - Asbestos-related Disease
 - Emerging Risks



Case Studies

1.

We successfully acted in this leading limitation case in disease claims.

A claimant, aged 81, sought provisional damages against three defendants for alleged asbestos related pleural thickening and asbestosis. On behalf of the defendants, we pleaded limitation and sought a preliminary hearing on the issue of limitation alone. The claimant at the hearing conceded he had knowledge of a significant asbestos related condition from September 2008.

The court ruled that it would be inequitable and unfair to allow the action to proceed and accordingly the claimant's application to display the effects of sections 11 and 14 of the Limitation Act 1980 was dismissed.

2. The Claimant alleged that he was required to use vibrating tools which caused him to develop vibration white finger and carpal tunnel syndrome. On behalf of the second defendant, we ran a causation defence, namely that the claimant did not frequently work with vibrating tools and that 'transitory' exposure to vibration above the threshold level does not automatically lead to a finding of breach of duty.

The Court found the defendant to be in breach of duty. The Court of Appeal ruled that the recorder's conclusions as to breach of duty could not stand and that given the transitory exposure to vibration above the threshold, it was not open to the Judge to find this constituted a breach of duty. Judgement was set aside and a finding was made for the second defendant.

3. Having received hundreds of Letters of Claim for Noise claims without proper audiometry or medical evidence we developed and ran a strategy to alter the behaviours of claimant solicitors by seeking judicial intervention. In 2018, we issued proceedings against a single firm of solicitors on 10 cases where the Letters of Claim were sent with no audiogram or medical report.

The strategy was aimed at encouraging claimant firms to save both sides' time and costs by only issuing those cases which were likely to proceed and which had supportive audiometric evidence. As a result of this market strategy it was established that the Disease Protocol is not engaged until a compliant audiogram is served, all future noise claims will be presented in a format adapted from the Civil Justice Committee Working Party proposal and audiometry would be carried on all NIHL cases in accordance with the Protocol adapted from the BSA guidelines.





Employers & Public Liability

We act for the broadest range of clients in this market, including global, UK and specialist insurers, Lloyd's and London Market underwriters, brokers, FTSE-100, FTSE- 250, and multinational corporations and many public sector organisations including local authorities and blue light.

Our expertise across injury types is further enhanced with dedicated subject matter groups in areas critical to the development and understanding of large loss claims; brain injury, spinal injury, amputation, chronic pain as well as issues relevant to claims and the wider market; care provision, deputyship, and actuarial influence. Our cross-border capability and long-standing experience in these

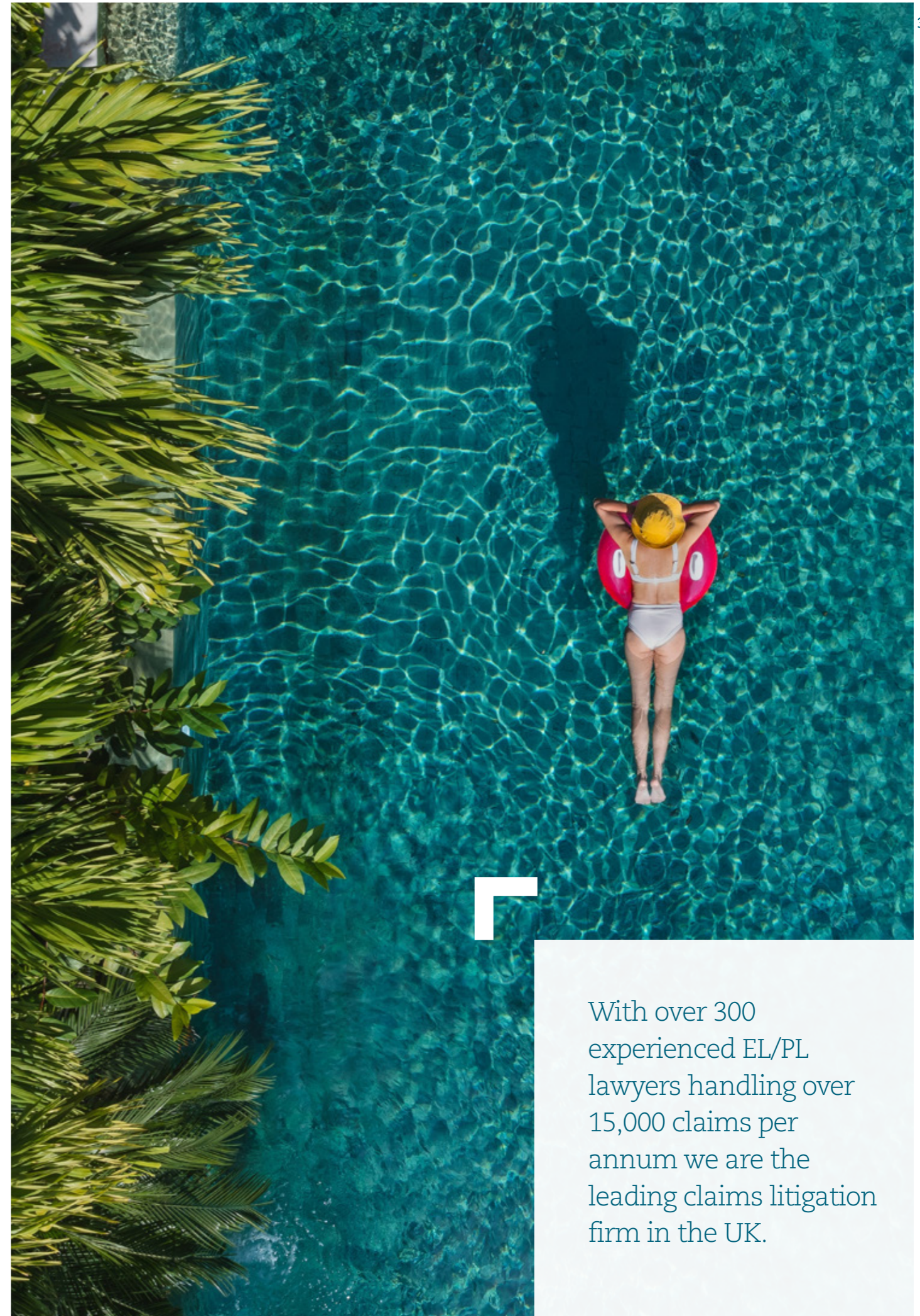
most significant claims have allowed us to compile various databases addressing, for example, life expectancy, vulnerable claimants and wider injury modelling.

We are very alive to propensity for fraud in PL claims and adept at analysing the veracity of claimants and defending such claims to trial, as well as beyond into criminal prosecutions. We have an invaluable resource in our national intelligence team to whom any case can be referred, and the full ambit of searches can be made against any individual and organisation.

As a result, many claims are successfully defended where the claimant's credibility is in doubt.



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With over 300 experienced EL/PL lawyers handling over 15,000 claims per annum we are the leading claims litigation firm in the UK.



Case Studies

1.

We dealt with a claim involving a member of the public who was returning home after attending the village “bale push”, taking his usual route through the church yard, when he misjudged the height of a chain as he attempted to step over it, catching his foot and pitching forward, landing on his face and fracturing his jaw.

Investigations were carried out and a robust approach was taken, with the claim being defended on the basis the claimant had failed to heed to the presence of the chain as a warning sign not to enter the premises. No similar accidents had occurred, and the church was not required to leave room for pedestrian access to their premises via their car park given that there was alternative pedestrian access.

We maintained a robust stance through to trial, where the judge found that the chain was obvious to any reasonable visitor, it was not a hazard, and the Trustees of the Church owed the claimant no duty to keep him safe from an obvious obstacle. The claim was dismissed and the claimant was ordered to pay the defendant’s costs.

2.

The claimant was a Skills Practitioner for a Brick Laying course at a College. He alleged he injured his back whilst moving 20/30 wheelbarrows of cement. He claimed the college had failed to provide him with manual handling training, failed to carry out a suitable and sufficient risk assessment, and had failed to reduce the risk of manual handling or provide suitable work equipment.

Investigation showed he had been a self-employed brick layer for 28 years, was responsible for completing the risk assessments with regards to the task in question, had attended a manual handling course whilst working for the insured and had lifted wheelbarrows of cement on countless occasions.

Liability was denied on the basis he was fully trained and an ‘expert’ in his field. A robust defence was put forward and following exchange of evidence, the claimant discontinued his claim.

3.

The claimant was employed by a very well known school as a cleaner. She alleged that she received an electric shock when cleaning the stairs with a vacuum cleaner, which caused her to fall and sustain injury to her lower back.

Liability was denied on the basis that the post-accident inspection of the vacuum found no fault with it. The claimant tried to allege that she developed cauda equine syndrome as a result of the accident, but a thorough review of the medical records led to serious questions over causation, a fact accepted by the claimant’s medical expert when questioned on the point. The claimant put forward a low offer to settle her claim, but in light of the liability evidence we had obtained, the offer was rejected, and we proceeded to trial.

At the hearing, the claimant gave evidence that she had only received a static shock when using the vacuum cleaner and provided inconsistent evidence throughout. The decision to stand firm and to deny liability was proven to be the right one, as the judge dismissed the claim on the basis the claimant had not shown there was any fault with the vacuum cleaner and had only received a static shock.





Fraud

We work with a number of the UK's leading insurers, investigating suspicious claims and helping to develop fraud policies that meet their business objectives. Our expertise covers a broad range of insurance fraud, including animal, casualty, motor and fleet, travel, household and property, and commercial.

From identification and investigation, through to civil and criminal prosecution, our fraud risk management service provides a tailored approach to managing fraud exposure, helping to protect brand, maintain policyholder relationships and minimise costs. We hold extensive cross-border data on fraud and our Fraud Sentry intelligence system screens claims to identify instances of fraud early in the process.

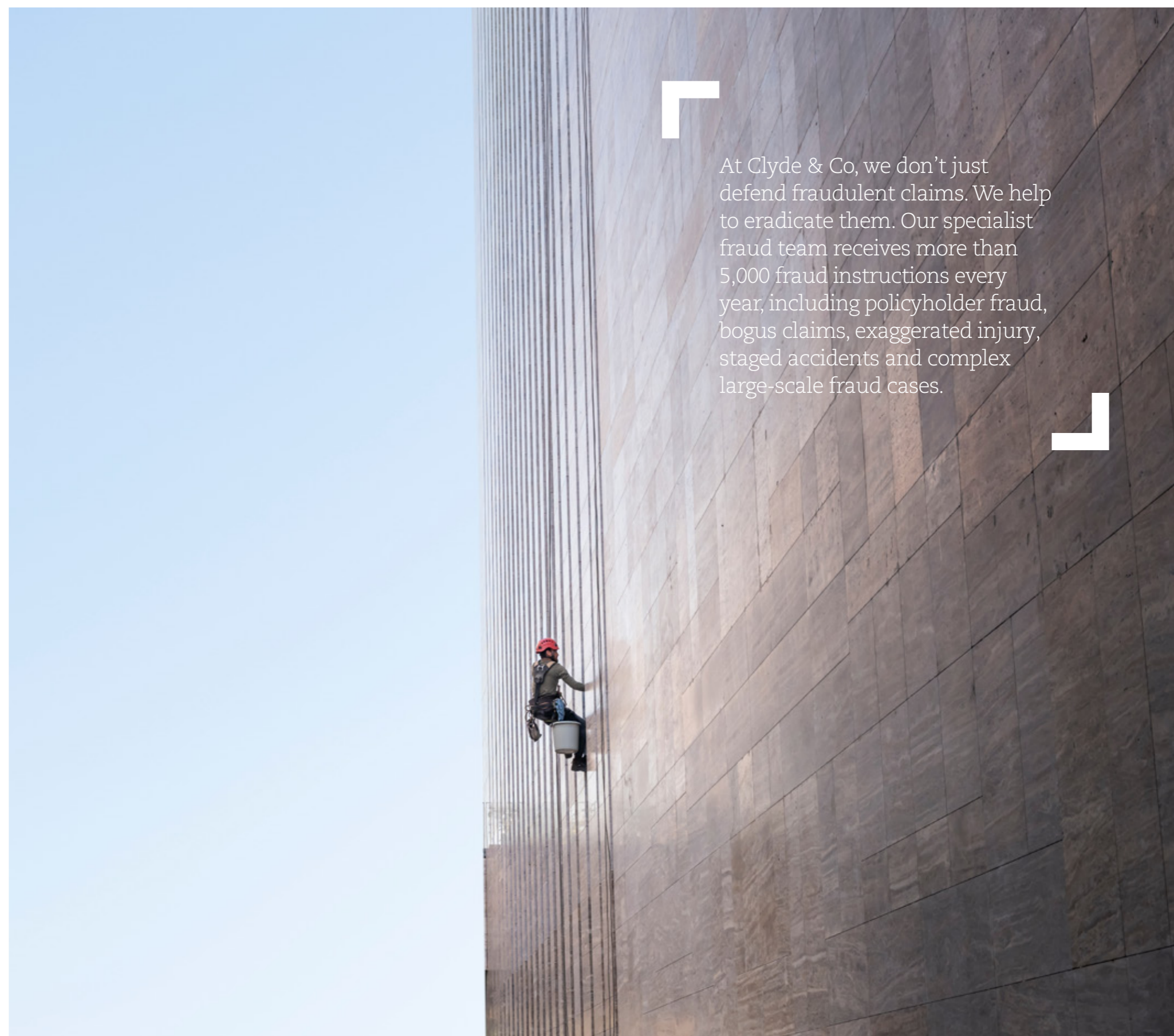
We believe we are unique in the fraud litigation arena due to our comprehensive breadth and depth of expertise across all product lines covering the UK and Ireland.

Throughout the UK, our fraud expertise is called on at the highest level. We work closely with HM Revenue & Customs, government departments, the Insurance Fraud Enforcement Department (IFED), we are affiliate members of the Insurance Fraud Bureau and members of the Association of British Insurers as well as sitting on a number of Fraud Special Interest Groups within the insurance industry to include FOIL and IFIG Insurance Fraud Investigators Group.

We have links with the Serious Organised Crime Agency, the Serious Fraud Office, The Metropolitan & City of London Fraud Squads and police forces throughout the country. In addition we played an active role in advising the government during the Insurance Fraud Taskforce investigations resulting in the subsequent IFT Recommendations to tackle Insurance Fraud at the highest level.



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At Clyde & Co, we don't just defend fraudulent claims. We help to eradicate them. Our specialist fraud team receives more than 5,000 fraud instructions every year, including policyholder fraud, bogus claims, exaggerated injury, staged accidents and complex large-scale fraud cases.

Case Studies

1. This claim was for a well-known vehicle insurance company and was referred on the basis that the claim appeared to be grossly exaggerated. The claimant brought a significant claim for loss of earnings / future loss.

This was in stark contrast to the surveillance carried out which appeared to show him to be working in some capacity as a delivery driver for his father-in-law's butcher. As regards the medical evidence position, the Claimant was supported by psychological and pain management evidence, who maintained that his injuries were CRPS related. The orthopaedic experts (defendant and claimant) broadly agreed that the cause of any ongoing symptoms would be non-organic in nature.

We disclosed 50% of the surveillance evidence (from December 2019 onward) initially with Part 18 questions at witness exchange, and once the claimant (and his father-in-law) had specifically denied understatement of truth that he had been working in the butcher's prior to December 2019, we then disclosed the earlier surveillance from October 2017 / July 2018 showing that they had lied.

That earlier surveillance (in addition to being during a time period he denied working at the butcher's) showed him performing manual handling and delivery work. The former was significant in relation to his reported physical restrictions and the latter to his alleged inability to work as a taxi driver.

Upon service of the latter, more decisive, aspect of the surveillance, an Amended Defence was filed and the evidence referred to the experts.

The Claimant experts barely shifted position and so once we put Part 35 questions highlighting the discrepancies in full detail, the Claimant requested a "drop hands". The third party driver offered a drop hands and discontinued in the face of a robust application for financial disclosure.

We recorded total savings of £676,266.54.

2. This was an Operation Maui claim which was referred as a suspected staged / contrived accident.

There was no specific evidence that the claim was staged / contrived but the claim was run to trial due to dishonest representations about the Claimant's accident history, his income, the insurance of his vehicle and the repairs to his vehicle. Two trials were adjourned and during the course of litigation both of the pre-lit Claimants' claims were statute barred without them issuing. After hearing the evidence of the Claimant and his witness at the Trial on 8 October 2020, the judge asked the Claimant's counsel to advise the Claimant about the implications of being found fundamentally dishonest. The Claimant asked for a drop hands.

We agreed that the Claimant could discontinue in exchange for him paying £3,000.00 of our costs which he did.

We recorded savings of £46,566.00.



Motor

Clyde & Co is a leading provider of defendant motor legal services in the UK and Ireland.

Acting for over 35 insurers, we are by far the largest professional service provider in this sector in the UK to include Scotland, Northern Ireland and the Republic of Ireland and have long standing contracts with all of the top 20 ranked insurers (by combined GWP). Clyde & Co's position as a leader in motor claims is recognised in the leading legal directories where we have been consistently top ranked for defendant bodily injury work over the last ten years.

Clyde & Co has over 400 specialist motor lawyers handling over 30,000 motor claims each year, with combined reserves of over £700 million. We are able to use our position as leaders in motor claims to work with the motor and wider insurance market in developing

strategies to reduce claims, indemnity spend and to support our clients in achieving their own objectives. Insurers, underwriters and large commercial fleet operators rely on us for our expertise and our early and robust strategies aligned with their claims philosophies.

Our full package of motor legal advice and support extends beyond defendant claims services and covers road transport, regulatory advice, policy coverage, counter-fraud investigations, recovery of insured and uninsured losses and the defence of road traffic accident (RTA) prosecutions across the UK jurisdiction. We also use the latest MI and business intelligence technology to provide analysis and identify new market trends.



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Case Studies

1.

The Defendant's driver, has advised that the Claimant had driven past her and became stationary, so she began to leave her car parking space and then saw the Claimant's reverse lights come on and in response to these became stationary when the collision occurred.

We were instructed on 21 April 2021. We adopted a pragmatic approach and considered that causation was likely to attach. An early Part 36 offer was made in the sum of £75,000 on 28 June 2021 and was accepted the same day. The Claimant's initial allegations were that she was driving her vehicle along Commonwealth Drive when the Defendant's insured pulled out from a parked position into the Claimant's vehicle.

We put forward a request to discontinue and this was rejected by the Claimant Solicitors as they stated that they intended to rely upon a telephone conversation from an independent witness. Following a review of the telephone call, the independent witness stated that the Claimant's vehicle was reversing into a parking space slowly, when the Defendant's vehicle has pulled out and gone straight into the rear of the Claimant's vehicle. The witness goes on to state that the vehicles were parking parallel. This account directly challenged the Claimant's initial allegations and we felt that this was a point that can be made in the Defendant's favour and therefore we were prepared to run the matter to a hearing.

Witness exchange was due on the 11 April 2022 and the Defendant's evidence was served. The Claimant's evidence was not received at all and the Claimant Solicitors were chased on the 19th April 2022 to confirm their position on the matter. The request to discontinue was also reiterated. Following this request, the Claimant discontinued their claim.

2.

The Defendant's driver has advised that the Claimant had driven past her and became stationary, so she began to leave her car parking space and then saw the Claimant's reverse lights come on

This claim arises as a result of a road traffic accident that occurred on 16 July 2018 when the insured pulled out of his driveway and collided with the rear of a stationary vehicle. The claimant was the passenger in the stationary vehicle. As a result of the accident the 71 year old claimant suffered a painful neck. She deteriorated over the next couple of weeks and ended up requiring a wheelchair. She was later diagnosed as having damaged 2 discs in her neck for which she underwent surgery.

Liability was admitted but causation and quantum remained in dispute. The concern was due to the claimant's delayed onset of symptoms. The claimant had not served medical evidence.

3.

The claim followed an RTA on 21 June 2020. The claimant's husband, son and daughter were walking their family dog on Father's Day on Abbey Road, Dalton- In-Furness, when they were struck by the insured's vehicle.

The insured was charged with three counts of death by dangerous driving. The insured was also prosecuted for destroying property, namely causing the death of the family dog. The defendant pleaded guilty to a Section 51 offence of driving with an alcohol level which exceeded the legal limit.

The first claimant, the father, sustained multiple fatal injuries. The second claimant, the son, suffered a fatal blunt force head injury. The third claimant, the daughter, suffered a fatal spinal injury. All three claimants are deceased following the collision. We engaged with the claimant to offer psychological treatment following the loss of her family. We were able to agree settlement at a JSM without a lengthy and costly expenses.

Damages were settled for £590,000, pre- proceedings and just over 2 years of the accident date. Costs were later settled for £75,000.





Regulatory & SHE

Organisations and individuals face increased scrutiny following accidents in the workplace, resulting in police and regulatory investigations and criminal prosecutions for breaches of health and safety legislation.

This brings the potential for significant fines, reputational damage and custodial sentences, together with the focus of a coroner's inquest in fatal incidents.

With dedicated regulatory SHE experts located across the UK and Ireland, we are able to provide immediate advice, support and representation, drawing on our local knowledge of the police, inspectors, coroners and courts.

Our highly regarded regulatory team delivers a full range of legal assistance across all sectors in the event of criminal and regulatory investigations, prosecutions and inquests.

We provide advice on all aspects of an incident including:

- Coordinating with the police, regulatory body and coroner during their investigations
- Legal privilege
- Providing proactive advice on responding to enforcement notices
- SHE fees for interventions
- Attending interviews under caution
- Drafting written representations to regulatory bodies
- Supporting and assisting employees who are required to provide statements to the police, regulatory bodies and the coroner

We also provide full support, advice and representation to companies, individuals and witnesses attending court hearings, trials and inquests.

Over the past two years we have represented over 500 companies facing criminal investigations and prosecutions, including several corporate manslaughter and fatal accident prosecutions. We have also represented over 50 directors, employees and drivers facing prosecution for the most serious of charges, including gross negligence manslaughter, offences under the health and safety legislation and death by dangerous driving, which carry custodial sentences.

Our **free 24/7** emergency helpline and UK-wide presence means our lawyers can attend an incident site within hours. Our team includes members with higher rights of audience to ensure that we reduce the costs of counsel and deliver value and costs savings in our proposition to clients. We also provide crisis response services for major incidents, including technical, commercial and media response advice.

We understand the SHE regulatory key risks affecting businesses and know that the potential impact of an incident on clients and their reputation can undo years of hard work and investment when nurturing vital relationships with customers, employees and suppliers. If badly managed, the true costs of an incident can sometimes far outweigh the actual amounts involved.



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Case Studies

1.

Our national health and safety team regularly acts in high profile HSE/Criminal/ RTA investigations, prosecutions, inquests and inquiries. Recent examples include being instructed by the well-known Trust following the death of a visitor to a beach in Cornwall and being instructed by a large and well-known tour operator concerning a double fatality in a parasailing accident.

2.

We currently represent a core participant in the Manchester Arena Public Inquiry. At all times we combine our natural expertise and efficiency with an empathy which is required to help customers in the most stressful situations. When things go wrong, your customers can have access to a sharp, approachable and dependable team at any time, day or night and will feel supported through difficult circumstances.



Property Damage and Recovery

Our property damage dispute resolution practice is one of the biggest names in the property sector.

We have a well-established and respected team that has vast experience advising some of the UK's largest insurers and specialist Lloyd's underwriters on all types of damage claims. This includes policy coverage, multi-million pound fire spread claims, subsidence, infrastructure damage claims, flood damage, and building defect claims through to engineering and Party Wall Act disputes.

Our dedicated insurance lawyers provide advice, liability defence and coverage expertise, which includes policy drafting, interpretation and advice on the scope of cover and breach of policy terms and conditions. We understand the issues that affect property developers, property owners, as well as residential and commercial landlords.

We have particular specialisms in policy coverage involving fraudulent property damage claims relating to arson, theft and malicious damage, and have considerable experience of managing bulk low-value property damage and liability claims recovery schemes.



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Case Studies

1.

First party claims with a major insurer arising from two serious fires at caravan retailers within a few weeks of each other.

The insured were two separate limited companies, but the individuals behind them were from the same family. Both fires arose in highly suspicious circumstances, but where it was not possible to allege arson by the insured. However, given other avenues of enquiry to pursue we co-ordinated the investigation of both claims to arrive at a position whereby it was possible to avoid one policy for non-disclosure of moral hazard and to repudiate the claim under the other policy for fraudulent exaggeration of the value of one caravan.

The investigation of the latter including enquires of the original US manufacturer with reference to the chassis number which revealed a different make and model to that being claimed.

Overall savings the insurer approximately £1.3 million.





2. First party claim with a major insurer arising from a serious fire at commercial premises. Suspicions arose as to the insured's involvement when it emerged that floorboards had been recently removed from the first floor which the Fire Brigade advised had aided the spread of fire. It was not possible to allege fraud against the insured, but in-depth investigation revealed grounds with which to avoid the policy for non-disclosure of moral hazard, including false statements/misrepresentations to previous insurers when obtaining cover.

The insured issued proceedings which were robustly defended and he eventually agreed to discontinue on a "drop hands" basis. He then sought to resurrect his claim with a complaint to FOS but following robust submissions, his complaint was rejected.

Saving to the insurer in excess of £1 million.

3. Claimant alleged that the insured's defective drains caused water to penetrate his basement resulting in damage.

The insured was a vulnerable customer who had lost her husband not long before the claim was made.

The claimant's solicitor purported to have a binding settlement with the insured in the sum of £25,000, inclusive of costs, which the insured was going to pay with her own funds. Once we became aware of the purported settlement, we challenged it and were able to reduce the settlement to £18,000, costs inclusive.

The insured was very pleased with the outcome and that she is now able to draw a line under the matter. She wrote to us, as below, to thank us for the outcome:

"Very grateful for what you have done for me. Would not had done it without your help.

*Many thanks,
Heather"*



Volume Recoveries

Clyde & Co offers a full recovery service across England, Wales, Scotland and Northern Ireland with recovery teams located in our Manchester, Glasgow and Belfast offices. Each office has teams of experienced lawyers who can handle all types of recovery matters. Our recovery proposition is digital and is based on the efficiency of an integrated claims management system that enhances technology to automate the end to end recovery process and to reduce the recovery claim lifecycle without the need for litigation unless necessary.

Motor

Our motor recovery team has expertise in the corporate, insurance and legal sectors, with the skills necessary to identify and pursue all losses arising from non-fault and split-fault road traffic accidents in all UK jurisdictions. In 2021, the motor recovery team recovered over £9million, handling over 9,000 instructions. We achieved an average rate of recovery of 96% of instructed outlay, with an average lifecycle of 88 days.

Property

We also pursue subrogated property recovery claims on behalf of many insurers and corporates ranging from the small claims track to claims over £100,000 covering all UK jurisdictions. Our lawyers undertake an immediate triage to establish the viability of the claim and to drive the investigations and discussions to an early resolution and without litigation. In 2021, the property recovery team recovered over £5million for our clients at an average percentage of instructed outlay recovered of 95% and we received over 1,200 instructions.

Fraud

We consider that recoveries within the context of fraud claims incorporates costs recoveries, damages recoveries (to include punitive exemplary damages), third party costs recoveries, confiscation and victim compensation orders. We train all our lawyers to ensure that recovery is part and parcel of their strategic approach to a case ensuring that no opportunities are missed. Built into our process is a review of recovery opportunities at each strategic review of a case. In addition we have a dedicated fraud recoveries lawyer who manages a portfolio of recovery cases.



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Case Studies

1. We successfully pursued a recovery under a deed for chancel repairs following the theft of lead from the roof of a parish church.

The insurer's adjuster inadvertently failed to comply with the requirements of the deed for notifying Anglian Water of the proposed repairs. Notwithstanding the poor prospects on a strict interpretation of the deed, we were able to make a substantial recovery of 95% of the repair costs plus legal costs in full.

2. In Scotland we acted in a recovery claim for a Baptist Church. The Church had been allowed to build on land owned by the Council many years ago but there had never been a legal transfer to the Church.

The Church building had therefore "acceded" to the land owned by the Council, and the insured had no title to sue for their losses.

We drafted an agreement for the Church to assign that right to the insured, requiring detailed analysis of the identification of the correct office bearers standing the complex constitution of the Church.

3. We are instructed to pursue a significant recovery for Cromlix House Hotel arising from an escape of water claim at this 5-star hotel owned by Andy Murray near Dunblane.

The claim has required to be carried out sensitively due to potential for any publicity to impact upon the reputation of either the owner or the hotel itself. Having exhausted attempts to reach a negotiated settlement with the third party we have commenced Arbitration proceedings rather than raising a court action, therefore ensuring that all parties are bound by the rules of confidentiality imposed by this process.

4. We recently achieved a £2.9million settlement for insurers regarding a subrogated recovery action in respect of losses following structural damage to the West Stand of the National Football Stadium also known as "Windsor Park".



Clyde & Co Newton Claims innovation offering

In the insurance sector, there has been huge acceleration towards digital channels and automation, particularly in claims management.

Innovation is at the heart of how we run our business, and how we deliver to our clients. This has led us to create a transformative new platform combining our market leading legal intelligence with artificial intelligence and process automation, to deliver an improved service and lowest overall indemnity spend to our insurer clients and a better claims experience for policyholders.

Thanks to machine learning, our platform's intelligence is always evolving - adapting in real time as claimant and third party solicitor behaviour evolves. The expert input of our lawyers, forensic accountants and fraud specialists, constantly informs and upgrades its intelligence.

This delivers ever improving outcomes for our clients.

Clyde & Co Newton is fully flexible to meet your needs. All implementations are entirely bespoke, built around our clients' claims handling philosophies and operational processes.

480

Partners

2,400

Lawyers

3,200

Legal professionals

5,000

Total staff

60+

Offices worldwide*

clydeco.com

*Includes associated offices Clyde & Co LLP is a limited liability partnership registered in England and Wales. Authorised and regulated by the Solicitors Regulation Authority.

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