



Montgomery – Update to the Law on Informed Consent in Birth Injury Cases

A decision handed down this month in the case of *CNZ v. Royal Bath Hospitals NHS FT & SoS for Health and Social Care* sees a change to the way in which informed consent is understood in relation to birth injury claims.

Background case law

In 2015, the landmark case of *Montgomery v Lanarkshire Health Board* changed the way the law had previously understood informed consent and allowed for greater emphasis on patient autonomy and choice regarding their care.

Montgomery was a turning point in the law on informed consent as it decided that all of the risks in relation to the patient's care and treatment should be disclosed to them to enable them to make informed decisions and that the decisions made regarding their care and treatment should be theirs rather than that of a medical professional, as was the law previously.

Case update

The case of *CNZ v. Royal Bath Hospitals NHS & SoS for Health and Social Care* involved a hypoxic injury suffered by the claimant in 1996. The claimant was the second twin to be born and there was a delay in delivery caused by the medical professional's decision-making which ultimately resulted in the claimant's injuries and consequent disabilities.

The decision made this month by Mr Justice Ritchie provided a further update to the law on informed consent regarding birth injury cases and decided that the case of *Montgomery* can be applied retrospectively and that the delay in the decision-making by the medical professional caused the injury.

What does this mean?

The decision in *CNZ v. Royal Bath Hospitals NHS FT & SoS for Health and Social Care* means that the decision in

the case of Montgomery can be applied to cases prior to 1999, and has once again brought to the forefront the importance of patient autonomy and decision-making.

There has been an application for an appeal.

How can we help?

Here at Lester Aldridge, our highly skilled and experienced clinical negligence lawyers can offer help in relation to complex [birth injury claims](#).

Please contact us at online.enquiries@la-law.com or call 01202 786260 to find out more information on how we can help you.

Further help and resources

There are also charities that can help to provide support and assistance:

- [Action Against Medical Accidents](#) (AvMA)
- [Association of Personal Injury Lawyers](#) (APIL)