

Guide to Making a Clinical/Medical Negligence Claim

Have you or a family member received medical treatment of any description?

Have you been left thinking that something has gone wrong or that you are not getting the whole picture?

If so, you may be wondering who to turn to and what to do next.

Our Guide explains what to do when making a clinical/medical negligence claim.

Make a Note

It can be very hard to remember everything that has happened and everything you were told by doctors months or even years down the line. Making a note of appointments, conversations, symptoms and treatment as you go along or as soon as you realise something may have gone wrong can be important.

Talk to your doctor

It can be very easy to assume that if treatment does not go to plan that is because something has gone wrong. Medicine is not a precise science and no two patients will ever have the same experience. Your doctor may be able to reassure you that everything is as it should be.

Make a complaint

If you still feel that something has gone wrong you can make a formal complaint to the doctor's surgery or hospital. Write your complaint out and keep a copy so that you have a note later on of what you said. Our Guide to Finding Out More about What Happened provides useful information that will assist.

Doctors surgeries and hospitals have clear procedures for dealing with complaints and will confirm to you the timescale in which they will be able to reply. When you get their reply you can consider whether or not you are still concerned about the treatment you or your loved one has received.

Contact a clinical/medical negligence solicitor

If you have spoken to your doctor and made a complaint and you are still worried that something has gone wrong, contact a [specialist clinical/medical negligence solicitor](#).

There are lots of solicitors who do clinical/medical negligence work – make sure you choose one who is qualified to act on your behalf and who is an expert in this area of the law. Solicitors who have proven experience in [clinical/medical negligence claims](#) are often appointed to specialist panels such as the Law Society Panel or the AvMA Panel (Action against Medical Accidents).

Your solicitor will ask you to go through what has happened and what you are worried about. If there are other steps you need to take they can advise you about this.

Medical Records

For example, your solicitor may often ask you to request your hospital or GP records in order to investigate your potential claim fully.

What happens next?

If your solicitor thinks that you have a claim worth investigating they will take a detailed statement from you and if not previously requested obtain copies of your relevant medical records.

- Following this your solicitor will instruct an independent medical expert to review your medical records, treatment and the outcome and advise whether they think that something has gone wrong.

What do we have to prove?

To be successful in making a clinical/medical negligence claim it is necessary to show:

- that a doctor has done something they should not have done – judged against the standard of the reasonably competent doctor in that speciality of medicine. This might be that they have done the wrong thing or that they have missed a diagnosis
- that the error made by the doctor has resulted in a worse outcome than you or your family member would have had anyway. It can be the case that even if the doctor had not made the mistake, treatment would not have been effective anyway or the outcome would have remained the same.
- the value of the claim – this involves looking at the injury you may have suffered and also what help and support you or your family will need in the future.

If you cannot prove an error has been made or that an error has occurred but this has not had an impact on the outcome of the treatment for you or your family member the claim cannot succeed.

How much will I receive in compensation for medical negligence?

Every case is individual. The value of damages is different in every case but multi-million pound compensation pay-outs are rare – they only occur in the most serious of cases where care will be needed for lengthy periods of time.

Compensation payments are divided into “general damages” and “special damages”.

“General Damages” are set by the court and depend on the nature of the injury and fit into certain bands of payment – the more serious the injury, the higher the level of damages.

“Special Damages” are specific to each individual claim. Calculating special damages is quite complex and involves looking at everything from the cost of any care that is needed, the cost of any equipment required (such as wheelchairs, hoists etc), loss of earnings, the need for accommodation and any rehabilitation treatment such as physiotherapy etc.

Your solicitor will not be able to tell you what your claim is worth until they have collected a lot of information but they will be able to give you some information about what sort of figure you might recover for general damages.

What next?

If the expert your solicitor instructs agrees that something has gone wrong, the rest of the claim will be investigated and other experts may need to be instructed to prepare reports. Those may be medical experts or they may be experts who can advise on what you or your family may need in the future in the way of additional help.

Your solicitor will also write a formal letter of claim to the doctor or hospital. This sets out the allegations that you will be relying on and the claim that is being made.

The doctor or hospital will usually instruct solicitors to represent them. They will have a set amount of time to reply and your solicitor will keep you updated about when that response is expected and what it says.

Will I have to go to Court?

Maybe. The vast majority of clinical/medical negligence claims can be resolved without the need for a trial.

Claims for children or for anyone who lacks mental capacity have to be approved by the Court before any settlement can be reached. Other claims can be agreed between solicitors. If that is possible you will be told about any offers of settlement that have been made and advised about whether or not to accept them.

Sometimes a claim will go to trial, if that applies in your case your solicitor will advise you about this and the reasons for it and ensure you understand exactly what is happening and why.

If you are still concerned about making a claim or if you are unsure about whether you should do so, contact our expert team and they will be pleased to help.

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