

MEDICAL CLAIMS & COMPLAINTS NEWSLETTER

Recent settlements

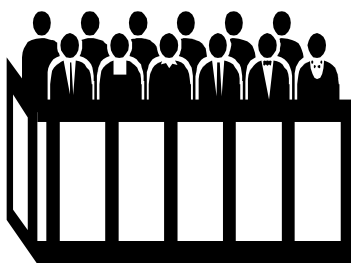
We have achieved some notable settlements over the last few months. These include:-

- £1,000,000 for a teenager left blind as a baby after negligent paediatric care caused the condition Retinopathy of Prematurity. This is believed to be one of the highest such awards made.
- £260,000 awarded to the estate of a mother of three who was left in a minimally aware state in a Welsh nursing home after negligent medical management led to her suffering a massive cardiac and respiratory arrest and brain damage.
- £10,000 awarded to the widow of a pensioner who died as a result of surgical mismanagement and in particular a missed diagnosis and delays in referral

Reports of these settlements are being submitted to Lawtel.

LSC Consultation Paper (Legal Aid)

There has been much recent speculation about the contents of the Legal Aid Board's imminent Consultation Paper on funding. Many are suggesting that the LSC is looking to back away from clinical negligence funding to a greater or lesser extent.



Whenever this document appears it is likely to cause a fair amount of consternation in many quarters. In 1999, the Government removed many categories of cases from Legal Aid, including personal injury. It was felt at that time that it was not feasible to remove clinical negligence funding also. A number of the arguments for retention back then are likely to resurface. There might of course be Human Rights Act implications if Legal

Aid for clinical negligence cases were to be abolished if that in reality meant such claims could not be pursued.

Harding Evans will endeavour to let you know when the Consultation Paper does emerge.

New Internet Health Resource

Wide-ranging health information from the British Medical Journal has been added to NHS Direct on-line. It can be directly accessed at www.besttreatments.co.uk The idea is to provide patients with evidence based information so that they can make informed choices about their own individual healthcare. This information comes from the BMJ's worldwide survey of medical research. A starting point is for the patient to choose from a range of relevant conditions from heartburn through to Multiple Sclerosis. This forms another useful tool for those of us who advise patients who wish to complain or claim.

Making Amends – CMO Report – Update

There has been little progress since the Chief Medical Officer produced his report “Making Amends” last year. A question was raised in the House of Lords in March suggesting that the report had “gone below the surface” since the Consultation Period ended last October. The response received was that the DOH was “considering when to bring forward proposals”.

In the meantime, yet more figures for the cost of NHS mistakes continue to appear. The latest English figures have been produced by the National Audit Office. Unfortunately, such reports are often accompanied by ill-informed comment from, amongst others, politicians. One Assembly Member has recently suggested that the NHS bill for clinical negligence is so high because of lawyers pursuing cases on a “No Win, No Fee” basis.

This is very misleading. The “No Win, No Fee” market has never really established itself as far as clinical negligence cases are concerned. These cases are often simply too complex. After The Event Insurers (who guard against the risk of “No Win, No Fee” cases failing) have not embraced the clinical

negligence market as they have in straightforward personal injury cases.

Pharmacy Advice Questioned

Earlier this year the Consumer Association carried out some undercover visits to pharmacies across the country. The advice offered varied significantly. Interestingly, it was the independent chemists as opposed to the large chains which came out worst of all – the advice offered in two thirds of the undercover visits was unsatisfactory.

We regularly receive instructions from patients who have suffered as a result of dispensing errors at pharmacies. We have 100% success rate in such instances with the costs being paid in each and every case by the National Pharmaceutical Association. Given that we are now increasingly encouraged to seek advice from pharmacists rather than GPs, it may be that we will increasingly see potential claims arising from substandard advice offered in the community pharmacy context.



Important Reminder – Legal Expenses Insurance

In earlier newsletters we have mentioned the need to be alert to Legal Expenses Insurance cover (which patients/clients may have under home contents policies). Moreover, the time limits for reporting such claims (usually 180 days). Unfortunately we still have come across situations where the patient/client has pursued a complaint **and only then**, often more than 180 days after the negligence, reported a claim to the insurers. Where that happens the LE Insurer often refuses to offer cover. That can mean a claim being impossible to pursue if there is no other funding. **Please therefore ensure any patient you assist with a complaint is aware of the need to check their policy and maybe notify their insurer as soon as possible – otherwise it may be too late.**

Harding Evans holds a clinical negligence franchise and are specialist panel solicitors. Contact us for an initial free consultation (at home if requested).

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