

MEDICAL CLAIMS & COMPLAINTS NEWSLETTER

Recent Settlements

In the course of the last few months, we have again managed to settle numerous clinical and dental negligence cases. Some examples include the following claims for damages:-

- Failed dental treatment over a period of several years leading to the unnecessary loss of several teeth.
- Failings in psychiatric treatment contributing to a suicide that could otherwise have been prevented.
- Delayed diagnosis and treatment of an ectopic pregnancy causing unnecessary pain and suffering and a knock-on effect on fertility.
- A & E negligence in failing to diagnose a knee injury – the correct diagnosis was only made some 6 weeks after the original attendance. That delay had an adverse effect on the eventual outcome.

These cases were funded by various means – private paying, “No Win, No Fee” Agreements and Legal Aid.

Ken Thomas has now recovered in excess of £5 million for clinical negligence Claimants.

New Senior Partner

From 1st April this year, Harding Evans has had a new senior partner. Mike Sage has taken over the role from Bill Morris following his retirement. Mike, originally from Usk, is a keen golfer and takes part in various charity and business golf days. Harding Evans now employs nearly 120 staff. Earlier this year, four more trainee solicitors joined the firm as part of its successful training programme.



CAB Caseworker Talks

Any CABs who feel they would benefit from a brief talk from the Harding Evans Clinical Negligence team should note we will deliver these free of charge. Topics covered could include time limits, funding, etc.

Speedy Resolution Scheme

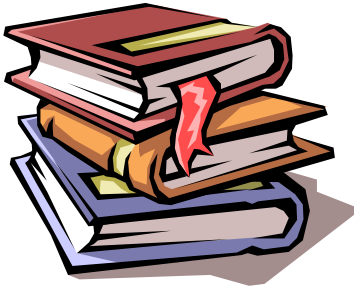
We are now pursuing several cases through the Speedy Resolution Pilot. These cases are still in relatively early stages. We will be interested to see the nature of the expert reports that are received. Much will turn upon whether or not the clients are satisfied that the reports in question are sufficiently thorough and comprehensive. Members of the public seem, in our experience, to be totally unaware of the Scheme.

Periodical Payments

Since 1st April 2005, the Court have had new powers and duties to consider periodical payments. In particular, where there is a claim for future monetary losses. In the case of a Cerebral Palsy victim, that could be care costs. Instead of (as has been traditional) the Claimant receiving one large lump sum, he or she may now receive a chunk of his or her award as a lump sum, with the remainder being paid by way of a periodical payment of £10,000 for life. We settled a case this summer where the Court considered whether the child Claimant's interests would be best served by a lump sum or periodical payment order.

Legal 500 Entry

Harding Evans has once more been highly praised in the Legal 500 Guide to the Legal Profession. Our clinical negligence team is said to have "consolidated its position as a leading practice". Harding Evans is now the 8th largest firm in Wales and the 2nd largest outside Cardiff.



10th Anniversary Roadshow

Harding Evans has again this year linked up with the South Wales Argus to deliver a series of free weekly clinics in the Newport and Cwmbran areas. These have been running now since 1995. Solicitors from the firm are on hand at each of the four roadshows throughout June to offer free advice on a variety of legal issues from medical negligence through to welfare benefits and childcare issues.

Referral Fees

Some of the best known clinical negligence franchised firms in South Wales have started paying referral fees for cases. Upon acceptance of instructions, they pay the other (non-franchised) firm as much as

£250 per case. Harding Evans does **not** make such payments. We feel that referrals should be made on the basis of merit and the client's best interests – not on the basis of which firm pays most for the referral. Such fees can, in our opinion, produce unsatisfactory situations where a client (who may be on benefits) is referred to a firm quite some distance away on the basis of the referral fee available, when that client would find it much easier to be referred on to a nearer firm.

New Complaints Requirement for Legal Aid

The Government has firmed up the requirement for potential clinical negligence Claimants who seek Legal Aid to pursue complaints before Public Funding will be granted. From now on, it will be expected that the majority of applicants for a Public Funding Certificate in these cases will have pursued a complaint under the NHS Complaints Procedure. The only exceptions would be, for example, cases where limitation is about to expire, or the NHS refuses to deal with the complaint. The rationale is that this will lead to more matters being resolved without public money being spent on legal investigations or otherwise less public money being spent on cases that do not prove successful. Where Public Funding is awarded, the Government wants to see more cases resolved by mediation.

Offers to Settle Claims on Behalf of Children – Warning

We have recently been instructed on a case where a Welsh NHS Trust made an offer to the child's mother to settle the claim. She was sent a letter offering a sum of money and enclosing a form of indemnity for her to sign. Fortunately, the child's mother thought better of accepting and sought legal advice. In truth, it is requirement of the Court Rules that no claim on behalf of a child should be settled or compromised without Court approval. That is because the Court must be satisfied that the child is receiving adequate compensation for the injury in question. That can only be determined upon consideration of legal advice. It is therefore not really appropriate for the Trusts in such situations to try and resolve matters involving children in this fashion.

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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