



MEDICAL NEGLIGENCE INVESTIGATING YOUR CLAIM

This leaflet is designed as a brief guide to provide practical information. It is not a complete explanation of the law relating to the issues which are dealt within the leaflet. You should always seek specific legal advice regarding the particular circumstances of your claim.

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Investigating your Claim

1 Initial Discussion

The first thing we do is to have a detailed discussion with you to find out what has happened and why you believe your medical treatment went wrong. We may also ask you to send us any relevant documents you have so that we can consider them as well.

We don't charge for this initial discussion or for considering any documents and there is no obligation for you to instruct us to act on your behalf, if you don't want to do so, even if we tell you that you have a good case.

When we have completed our initial review of the available information, we will tell you whether we can help you. If we can and you want us to do so, the next step is to arrange funding for your claim.

2 Funding your Claim

We will need to arrange a suitable method of funding the legal costs before we can start the investigation of your claim. Most of our clients enter into a Conditional Fee Agreement (so called, No-Win, No-Fee, Agreement) with us, although there may be other funding options available to you.

We believe that if your claim has real reasonable prospects of success you should be entitled to investigate it, so whatever your circumstances we will find a method funding that is right for you.

3 Obtaining your Medical Records

The first stage in the investigation of your claim is to obtain copies of your medical records. We will prepare the necessary forms of authority for you to sign which will authorise the holder of the records to disclose them to us.

There is no fee payable to obtain disclosure of your medical records and they should be sent to us within 30 days of the request being received.

Once we have received your medical records and have sorted them we will send you a copy to consider and will ask you to confirm whether you agree with what has been recorded. We will also study them to check that the contents of the medical records agree with what you have told us about your medical treatment.

4 Preparing a Witness Statement

Once we have both considered your medical records, we will discuss them with you. We will also discuss the circumstances surrounding your medical treatment, what went wrong, the nature of your injury and whether anyone is to blame, in greater detail.

When we believe that we have all the relevant factual details, we will prepare a witness statement for you. This is a document which contains your evidence in support of your claim. It is essential that the content of your witness statement is true and accurate and contains a comprehensive description of what happened and how you have been affected.

We may also wish to obtain witness statements from anyone else who may be to help explain what has happened to you.

5 Getting Advice from Independent Medical Experts

However strongly you believe your medical treatment was negligent and caused you to suffer an injury and however much we may agree with you, your claim will not succeed unless an independent medical expert confirms that the standard of the care which you received fell below a reasonable standard and that this caused your injury.

As soon as we have obtained the medical records and prepare the witness statements, we can instruct an independent medical expert. Sometimes, a single expert can advise on both negligence and the cause of your injury but on other occasions, it may be necessary to instruct two or more experts to deal with these issues.

We will advise you when we have received all the expert evidence and we will review the strength of your claim. Whether your claim can be pursued will depend upon whether the expert evidence supports your claim or not.

In about 50% of the cases that we investigate, we find that the expert evidence does not support the claim and the case cannot be taken any further. This may be because we cannot show that the injury that you have suffered is the fault of the doctor or hospital where you were treated, or more often, because we cannot establish that the negligence caused your injury, as opposed to the natural progression of the underlying condition for which you were being treated.

6 Calculating your Financial Losses and Expenses

You are entitled to be reimbursed for any financial losses and expenses that you have incurred, so you will need to provide us with accurate details of the amounts involved.

You should also provide us with copies of any receipts you may have. If you don't have a receipt for any item, you may still be able to claim the amount involved provided you can estimate what it has cost you.

It may be necessary for us to write to a third party to confirm these details, for example, your employer, if you are claiming loss of earnings.

7 Sending a Letter of Claim

Once we have had the opportunity to consider all of the evidence and we have confirmed that we believe that your case has good prospects of success, we will prepare a Letter of Claim.

The Letter of Claim is a detailed letter which we send to your opponent, setting out the allegations of negligence against the doctor or the hospital where you were treated and confirming the nature of the injury you have suffered. We will also explain why we believe the negligence has caused your injury.

We can also provide your opponent with details of your financial losses and expenses, if you have given us this information.

The opponent will have four months in which to respond by providing a Letter of Response.

8 Receiving a Letter of Response

The Letter of Response is a letter in which your opponent must provide a detailed response to all the allegations contained in the Letter of Claim.

It may contain admissions of negligence and an acceptance of responsibility for causing your injury, in which case your opponent will agree to pay you compensation. Alternatively, your opponent may deny having done anything wrong, in which case you will probably have to issue Court proceedings to pursue your claim.

9 Settling your Claim or Issuing Court Proceedings

What happens next will depend upon the position adopted by your opponent.

If the Letter of Response contains a full admission of liability, your opponent may make an immediate offer to settle your claim. Alternatively, if further evidence is needed before the value of your claim can be properly assessed, the parties can agree what steps need to be taken before settlement can be negotiated.

If the Letter of Claim contains a denial of liability, it is likely that you will need to issue Court proceedings to pursue your claim. However, in some cases, your opponent may still make an offer to settle your claim, despite having denied liability. If this happens, you will need to carefully consider whether the offer represents reasonable compensation for what you have suffered.

As an alternative to issuing Court proceedings straightaway, you may wish to consider inviting your opponent to engage in mediation, which is a possible alternative method of resolving your claim, involving an independent third party.

Over 90% of the cases that we proceed with, after receiving the Letter of Response, result in a payment of damages.