

A Brief Guide to Clinical Negligence Claims

If you have received poor medical treatment, for example from a GP, NHS or Private Hospital or Dentist, it is important to seek professional legal advice to see whether you may be entitled to compensation. This guide looks at what the requirements are to be able to make a claim.

In order for a claim to be successful, it is necessary to establish the following two elements:

1. Breach of Duty

The first element is to establish that the care you received fell below the reasonable standard that could have been expected by the medical professional who provided the treatment.

For example, a GP may only be expected to be suspicious that a patient was suffering from a condition such as cancer and make an appropriate referral to a specialist. The specialist at the hospital, by contrast, would likely be expected to confirm such a diagnosis and make an appropriate plan for treatment.

2. Causation

The second element is to establish that you have been harmed or are worse off as a result of the Breach of Duty. The harm that has been caused by the Breach of Duty must be distinguished from the symptoms that you would have suffered in any event had the Breach of Duty not occurred.

For example, if a GP negligently fails to spot symptoms of cancer, causing a delay in diagnosis, you would have to show that, as a result of the delay, your prognosis is worse than it would otherwise have been. The longer the delay that the Breach of Duty causes, the more likely it is that Causation can be established.

The Process

The first stage to investigate your claim will be to obtain a complete set of your medical records from your GP and any hospitals you have attended.

We will then review the records in detail to ensure that we are aware of all the issues and decide the correct medical speciality from which to obtain medical reports.

It will then be necessary to instruct an independent medical expert or experts to review the records and prepare a report or reports addressing Breach of Duty and Causation.

If the medical evidence is supportive of a claim, we will then seek to quantify your claim by arranging for you to see the medical expert or experts. They will prepare a report as to your current condition and what they expect your prognosis to be in future.

These reports can then be used to assess your future needs and to quantify the likely value of your claim. In doing so, we will consider any financial losses you may suffer in the future, for example loss of earnings, care requirements you may have, and any other expenses you may have already incurred.

Once we are in a position to do so, we will write a "Letter of Claim" to the Defendant setting out the circumstances and the allegations of negligence and inviting them to confirm whether the claim is admitted or denied.

If some or all of the claim is denied, it may then be necessary to issue Court proceedings to seek the Court's determination of the claim. However, the vast majority of claims settle prior to the trial taking place and it is unlikely that you would be required to attend Court in person.

Time Limit for Bringing a Claim

In most cases a clinical negligence claim must be issued at the Court within 3 years of the negligent treatment.

It is therefore vital that professional legal advice is sought as soon as you consider that the negligent treatment has taken place in order that the claim can be investigated within this time limit.

Butcher & Barlow have a team of experienced solicitors specialising in Clinical Negligence claims. For advice about your situation, please [contact your local office](#) who will be able to direct you to one of our specialists.

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