

insideinformation – fact sheet

Clinical Negligence

Information courtesy of Rajan Mawji of Harrison Bundy Solicitors Leeds

Clinical Negligence – Fact Sheet

Prisoners have the right to the same level of healthcare as people in the community. Since 2006 healthcare services in prison have been the responsibility of NHS Primary Care Trusts (PCTs) and are delivered in partnership with the Prison Service.

Some times things can go wrong with the care provided. If you are concerned about the medical care you are receiving in prison in the first instance you should make formal complaint to the Governor. If you have suffered injury as a result of the care provided you may be able to pursue a legal claim for compensation.

Legal Action

Clinical negligence claims can be brought against doctors, nurses, dentists, opticians and therapists. It is necessary to prove that the treatment was negligence and that this negligence has caused you injury.

Negligence

You need to prove that the doctor, or other healthcare provider, did something that no reasonably competent doctor would have done. Evidence will be required from an independent medical expert.

Causation

You need to prove that the negligence has probably caused you injury. It is necessary to distinguish between those problems which are due to your medical condition and those that are due to the negligence

Compensation

If negligence and causation can be proved then you are entitled to:-

- general damages for your pain and suffering
- special damages for any past financial losses and expenses
- compensation for future losses and expenses

Time Limits

You should seek legal advice as soon as you think that you might have a claim. Court proceedings must be issued within 3 years of the negligent treatment, or within 3 years of the date that you knew that you had suffered injury as a result of negligent treatment.

Clinical Negligence

Who do I sue?

- if you suffered injury as a result of care provided by a doctor, nurse etc who treated you in prison the claim is against the PCT responsible for providing healthcare services for the prison
- if you suffered injury as a result of care provided by a hospital the claim is against the NHS Trust responsible for the hospital
- if the Prison has refused to take you to hospital appointments, for example if they say they did not have enough staff to take you, and you have suffered injury as a result then there may be a claim against the Prison Service

Medical Records

You are entitled to copies of all your medical records unless it can be shown they include entries that could cause mental injury if you saw them. Your solicitor will need to obtain copies of all your medical records, not just those relating to your medical care whilst in prison.

Costs

Legal Aid is available for clinical negligence claims. You will need to show that you qualify on financial grounds and your case has reasonable prospects. You will need to ensure that you instruct a firm that has a Specialist Quality Mark (SQM) in Clinical Negligence from the Legal Services Commission

IMPORTANT NOTICE

Information is given on a strictly 'without-liability' basis, and should be considered for use as guidance only. If you propose taking further action based upon this information you are strongly advised to take further and more specific legal advice before doing so.

insidetime *the National Newspaper for Prisoners*

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