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## **Misdiagnosis of Cancer/Failure to Diagnose Cancer**

Significant advances in medical technology over recent years have made it possible to treat and cure every type of cancer. It is however universally recognised that the key factor in the successful treatment of cancer is early detection, diagnosis and treatment. A delay or error on the part of a GP or medical professional may deprive a patient of receiving the treatment they need.

## **Medical Negligence Solicitor can help you**

The medical profession usually provide a caring service with a high standard of excellence. However there are occasions when patients treated on the NHS or privately may be the victim of a medical accident. When that accident is attributable to incompetence or lack of care, it may be possible to bring a claim for clinical negligence compensation

## **C Difficile Claims**

Recently there has been a vast increase in the prevalence of hospital bugs or 'super bugs'. If you or a member of your family have suffered you will understand the stress and anxiety that they cause.

One of the most recent and deadly of these is C Difficile, which, if you or a member of your family should contract whilst receiving treatment at a hospital, could lead to a hospital negligence claim.

"Clostridium Difficile", known as "C Difficile" or "C Diff" is a new strain of hospital super bug, which came to public attention in 2003 after 41 pensioners were killed by the bug in Stoke Mandeville Hospital, which was later discovered to have been unhygienic and as such seen as directly responsible for the outbreak.

"C Diff" is a naturally occurring bacterium found in the gut often in bowels of young babies, which will multiply when the natural balance of bacteria is altered, usually after a course of antibiotics. Of course many patients in hospitals are treated with antibiotics and so are particularly vulnerable to the bug, as are the elderly and people recovering from surgery.

Initial symptoms are mild diarrhoea and this may pass in a couple of days, however it may lead to more dangerous diseases, severe dehydration and even death.

The bug is so dangerous because it has become immune to the effects of antibiotics and is able to survive outside the body for up to 70 days, very often on dirty floors and around toilets.

It is even said to be resistant to some cleaning products. Statistics from the Health Protection Agency show that in 2005, 51, 690 cases were recorded among patients aged 65 and over and also 13,000 cases among the young. It is thought that patients being shifted from ward to ward because of the shortage of hospital beds and unsanitary hospital facilities are responsible for the prevalence of the bug.

If C Difficile has affected you or your family you need to consider the following factors to determine whether you might be able to make a claim for compensation:

## **Hospital Acquired Infections**

**Infections are traditionally, and in most cases adequately, treated with using antibiotics such as penicillin or methicillin. However a new strand of infection has now evolved which is resistant to the antibiotic drugs traditionally used to treat and cure infections. This new strand of infection is known as methicillin resistant staphylococcus aureus or MRSA. More recently a new super bug has been found - this is C Difficile.**

### **Are MRSA and C Difficile New Hospital Acquired Infections?**

MRSA is not a new infection. It has been known to exist since the 1960's. It is however much more prominent than ever before due to lower cleanliness standards in hospitals and poor hygiene routines of medical staff. The elderly and ill are most at risk of catching the MRSA infection due to their immune systems being lower. Patients with drips or open wounds are especially vulnerable. Where a patient contracts MRSA whilst in hospital this may give rise to a claim for medical negligence if it can be shown that the source of the infection was the hospital or clinic. This also applies to C Difficile after a recent hospital outbreaks.

### **What Action Should a Hospital Take?**

Once a patient has been diagnosed as having a hospital acquired infection, urgent steps must be taken to prevent the infection spreading to other patients. The site of the infection needs to be cleaned and treated. The patient should be isolated from others to prevent the condition being passed on and hospital staff should take extra precautions after coming into contact with the infected patient. Protocols have been implemented requiring a strict standard of hygiene for hospitals and medical staff. If these standards are not maintained there may be a claim for medical negligence.

## **What is a Medical Negligence Claim?**

**Medical Negligence, now often referred to as Clinical Negligence can arise out of many circumstances but broadly speaking claims will fall into one of three categories:**

- a mistake being made by the professional whilst carrying out the treatment such as prescribing the wrong drugs or carrying out an operation incorrectly
- an omission being made by the professional such as failing to diagnose a condition or failing to refer a patient for a scan that would have resulted in a condition being diagnosed
- failure to obtain full and appropriate consent prior to carrying out treatment or warn of the potential risks and side effects of treatment

## **Sue The NHS?**

**Read our Clinical Negligence Guide to see if you have a valid claim.**

**If you have arrived at this page you are obviously concerned that a medical mistake has been made and you want to see if you can sue the NHS for an injury you have suffered. This guide looks to examine the basic legal system. If at the end of it you would like a free and expert legal opinion on whether you can sue the NHS, please complete our free on-line enquiry form.**

To establish whether clinical negligence (formerly called medical negligence) has occurred you

have to meet certain tests. These are:

- Establishing a duty of care (i.e. the NHS to look after you whilst in their care)
- Breach of that duty of care towards you (i.e. the clinical negligence)
- The breach of duty caused your injury/illness (causation)

We will look at these in more detail below.

## **Duty of Care**

If you have been under the care of the NHS the duty of care is easily established. When you enter the care of the NHS they have a duty to look after you as you are completely under their care.

## **Breach Of The Duty Of Care**

Once you have established a duty of care, before you can sue the NHS you must prove that this duty has been breached. Without going into too much of the lengthy legal duty the doctor, consultant or nurse must do an act that breaches this duty (e.g. amputation of a wrong limb or a negligent operation causing more injury) or failing to take action (such as C Diff where the failure is to keep the hospital clear from super bugs).

## **Causation**

Often the hardest part of a clinical negligence claim is proving that the breach of duty "caused" the injury sustained by the patient. If you can prove that the act or failed action caused the injury then you have established the basis for a claim and you should be able to sue the NHS.