

Medical Negligence Claims



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About Graysons

We all receive medical treatment at some point in our lives either from doctors, nurses, dentists or other workers in the Health Services. Unfortunately, on occasions the treatment may not be of the required standard and the patient can suffer pain and injury as a result.

If this happens, you do not need to suffer in silence, contact Graysons for support and advice.

We have a specialist team who obtain compensation for victims of medical negligence. We are members of the Law Society's Medical Negligence Panel which means that we are recognised as experts in this field.

Our expertise means that we are one of just a few law firms in South Yorkshire and the only one in North Derbyshire, who can offer Legal Aid Funding for advice about a claim.

We will carefully assess the circumstances of your complaint and advise you on the strength of the claim and the likely level of compensation that may be recovered. You can also rely on us to support you through formal court proceedings if they are necessary.

Graysons has a history of obtaining compensation for the victims of medical accidents - through negotiated settlements and in formal court proceedings. We work with independent medical experts who can offer technical, specialist advice and if necessary give evidence in formal court proceedings on your behalf.

In all cases we offer free initial advice. If Legal Aid is not available we are able to offer 'No Win - No Fee' funding in suitable cases.

Cases are handled sympathetically and with discretion. Confidentiality is assured at all times.

Contact us for a free initial consultation.

These are the questions we are asked most frequently about Medical Negligence Claims



Have I got a claim?

In order to win a medical negligence claim we have to prove that a mistake was made, the effect that this mistake had and the losses involved.

- **Breach of Duty** - A health care provider owes a duty of care to the patient. To prove breach of that duty we have to show that a mistake was made in the care that you were given (or not given). This is very different to the outcome of the care given not being what you expected or not being successful. The key to establishing breach of duty is whether the health care provider has acted according to accepted medical practice. We have to show that the wrong course of action was taken during your care.
- **Causation** - Once we have identified that a mistake was made and that this was negligent we then have to show that the mistake was the cause of the injury. This will involve getting expert witnesses to look at your claim and prove evidence of a causative link between the negligent treatment and your injury.
- **Loss** - We will obtain medical evidence about the effect that the negligence has had on your health and how this will affect you in the future. We will quantify your losses by looking at several factors including your loss of earnings, expenses incurred as a result of the negligence and future implications,

which might include ongoing losses or the need for care or further medical treatment.

No two cases are the same. Some will have a clear breach of duty, but proving the causation element may be difficult.

Medical negligence claims are complex and can be difficult to prove but our expertise will give you the best possible chance of success.

Who can I claim against?

You can make a claim against any healthcare provider who has caused you an injury or provided negligent diagnosis, care or treatment. **This includes:**

- NHS
- Private healthcare providers
- Doctors
- Nurses
- Dentists
- Midwives
- Health visitors
- Physiotherapists
- Mental Health Care providers
- Opticians
- The Ambulance Service

How long do I have to make a claim?

If you think you may have a medical negligence claim it is best to contact us as early as possible as there are time limits for bringing a claim.

In general you have to start court proceedings within 3 years of the date of your treatment or injury. In some cases you may not know initially that you have suffered an injury and in these cases you have 3 years from the 'date of knowledge' of the injury.

The 3 year limit does not apply to children until they reach their 18th birthday. However you do not have to wait to take action, as a parent or other adult can make a claim on behalf of a child.

In certain circumstances, where someone does not have the mental capacity to decide for themselves about making a claim, no time limit applies.

The rules stated above are general guidelines, but if you feel that you may have a claim please contact us and we may still be able to help you. It is always best to act promptly.

How long will my claim take?

The length of time a claim takes depends on a number of factors.

The volume and complexity of your medical case notes is a factor as these have to be obtained from the various health care providers, organised and understood before we can proceed.

The nature of your injury may dictate the number of medical specialisms involved and obtaining evidence from medical experts in different fields can take time.

Investigating your claim to the point where we feel we have strong evidence on breach of duty and causation may take around 12 months.

If we are unable to negotiate a settlement of your claim we can represent you in court proceedings which can take around 18 months to complete to settlement or trial.

Other factors such as the attitude of the health care providers and their solicitors can also affect the time taken to process a claim.

No two cases are the same and the timescales mentioned above are general guidelines. Straightforward claims may be settled quickly whereas more complex ones can take longer.

What does it cost?

There are a number of ways of funding legal fees for a Medical Negligence claim.

If you win your claim, your opponent will usually have to pay your legal costs in addition to any compensation which you receive.

- **Public Funding** - Medical negligence claims can often be highly complex and therefore costly to pursue. For this reason Public Funding (formerly Legal Aid) is available in many cases. To get public funding you have to qualify financially to receive it and we also have to show that your claim has a reasonable chance of success.

Graysons is the only law firm in North Derbyshire, and one of just a few in South Yorkshire, who can offer Legal Aid Funding for advice about a claim.

- **Legal Expenses Insurance** - This is often included with general insurance policies such as home insurance. It may also attach as a benefit to a credit card. You may already have this type of cover and it is often suitable for funding a claim.

- **No win - No fee** - This is the commonly used name for what is officially called a 'conditional-fee agreement'. Under this type of agreement we would take on your claim on the understanding that if you lose, we will not get paid.

How much is my claim worth?

The value of your claim will depend on a number of factors including:

- The nature of the injury
- Whether you recover fully from the injury, or if it has a long term effect on your health and wellbeing
- The amount of any losses you incur as a result of the injury

You can claim compensation for the following things if they are a result of your injury:

- Pain, suffering and loss of amenity
- Loss of earnings
- Medical and nursing care costs
- Special equipment needed to carry out daily activities and any costs involved in adapting your home
- Other expenses incurred as a result of your injury, for example, travel expenses incurred whilst receiving medical treatment.

What if someone has died?

If a family member has died you may be able to bring a claim depending on your relationship to the deceased. Only one action can be brought so it will often be on behalf of a number of people, for instance a surviving wife and children together.

In a case where someone has died, as in other cases, we have to prove breach of duty and causation, so much of the process of making such a claim is similar.

There is a statutory award for bereavement of £10,000. You may also be able to claim for other things such as loss of dependency if you were financially dependent on the person who has died. The amount of these damages will depend on the age of the person and their future earnings potential, as well as other factors.

Will I have to go to court?

The vast majority of claims do not get as far as a trial. In most cases a settlement is negotiated and damages are paid prior to going to court.

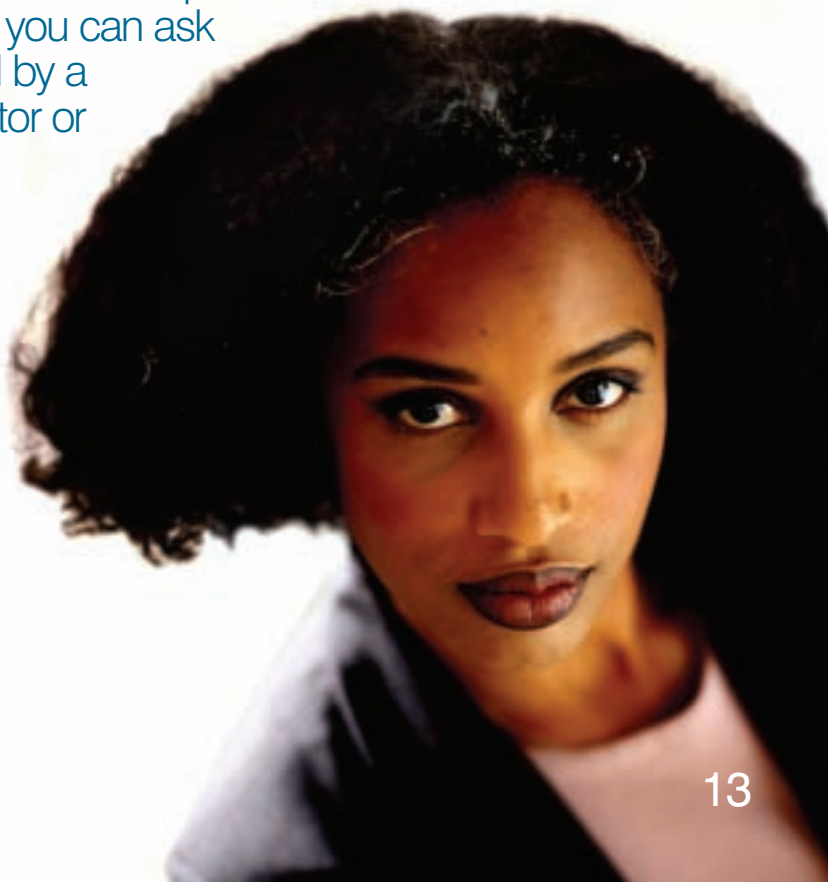
If I claim against my GP or hospital will it affect my future care?

Neither your GP nor the hospital has the right to refuse to treat you simply because you have brought a claim against them.

In practice however you may feel more comfortable in seeking an alternative health care provider.

In the case of a GP it can be a simple process of changing practice or simply seeing a different doctor within the same practice.

At a hospital you can ask to be treated by a different doctor or you can be referred elsewhere.



What if I just want an explanation and an apology?

You may not be seeking compensation but want an apology for the mistake that was made and an explanation about why it happened.

The NHS has a complaints procedure which can be used to try to get an explanation about what went wrong, and possibly an apology.

If you want to pursue this course of action we may still be able to help you. Contact us to discuss your circumstances and we will be happy to advise you.



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- Industrial Disease Compensation
- Wills, Estates and Trusts
- Elderly Client Services
- Conveyancing
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Contacting us is easy If you would like more information on any of the areas we cover we have a range of brochures available to help you.

Phone us or return one of our pre-paid cards to receive more information.

Or go online to download our full range of brochures and information sheets.

Or phone or email us to request an appointment.

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