

To win a clinical negligence claim you must establish:

- That the standard of clinical treatment that you received was unacceptable
- That the substandard treatment has caused you harm and
- The nature and extent of the harm

The standard of care that should be provided is a medical question. If there are other responsible medical practitioners who would have treated you in the same way as the treating team then the Defendant will have a defence to your claim.

It is not enough to establish that the treatment was unacceptable, you will also have to prove that the substandard care has caused you harm. Most patients are suffering ill health when they receive treatment. If your ongoing medical problems are caused by the underlying medical condition and have not been caused by the unacceptable treatment you will not have a claim.

To investigate your potential clinical negligence case we will obtain all your medical records and will obtain the advice of independent healthcare practitioners on the medical issues. In particular they will advise us on the standard of treatment that is acceptable generally, whether in your particular case the treatment fell below the acceptable standard and also

whether any substandard care received by you has caused all or any of your ongoing problems.

When the preliminary enquiry has been completed Burnetts specialist Medical Law team will be able to advise you on the likely merits of your legal case. If your potential claim has reasonable prospects of success then, if you so wish and subject to funding being available, legal action can be commenced.

Legal action is started by filing a document known as the Claim Form with the court. There are then a number of legal procedural steps that have to be completed as the case progresses before the claim is heard by a single judge.

Most claims take about two years from the issue of the Claim Form to reaching trial. The case will be reviewed by a procedural judge at various stages. At any time during the course of the case the claim may be settled out of court.

If your legal action is successful you will receive compensation known as damages plus payment of your legal costs in accordance with the court rules.

The above is a summary of what needs to be established and the process of pursuing a clinical negligence case. If you require any further information please do not hesitate to contact us.



Monday - Friday 9.00 a.m. - 5.30 p.m. Saturday 9.00 a.m. - 12 noon

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Clinical Negligence Litigation

