

# Bringing a Medical Negligence Claim

Mistakes can happen when medical professionals fail to consider rare condition, like Cauda Equina Syndrome (CES).

Nearly all medical negligence claims relating to cauda equina syndrome arise from GPs or A&E doctors (often juniors) mistaking a patient's symptoms for more minor conditions like mechanical back pain.

A patient who complains of severe back pain may have other symptoms which the doctor must check for to be sure that early warning signs of cauda equina are not missed.

These signs and symptoms (often known as "red flags") may include:

- Altered feeling in the lower limbs
- Altered feeling in sexual areas, perineum and anus
- Urinary problems such as incontinence, retention and lack of sensation whilst urinating
- Bowel dysfunction

A patient who is thought to be developing cauda equina syndrome (CES) requires urgent neurosurgical review including an MRI scan of their spine and emergency surgery to release (decompress) the pressure on the spinal cord.

Below are some common questions that people ask about bringing a medical negligence claim relating to cauda equina syndrome:

## 1. What do I need to prove to succeed in a medical negligence claim for cauda equina?

To be success in any medical negligence case you have to prove two things:

- a. That you received a poor standard of care (it was "negligent"); and
- b. That you have sustained an injury as a result of the failings in that care

You have to prove both of these things to be successful in claim.

Most claims relating to cauda equina syndrome arise as a result of a failure to diagnose and treat CES in a timely manner, which results in a worse outcome for the patient.

## 2. How can I prove negligent treatment?

Early signs of CES may be difficult to diagnose, as the patient's main complaint may be back pain which can have many less dangerous causes. However, as CES is potentially so damaging, doctors are expected to take the necessary steps to identify or rule out CES when a patient complains of symptoms which could be an early warning of the condition.

GPs and hospital doctors should do this by:

- listening carefully to the patient's description of their symptoms

- asking them direct questions about other symptoms and signs which would suggest a diagnosis of cauda equina
- examining the patient carefully

Doctors must record in the patient's medical notes:

- their efforts to check for signs of CES
- the action that they have taken
- the advice they have given

If cauda equina is suspected, the doctor must refer the patient urgently for surgery to decompress (take pressure off) the cauda equina nerves before the patient suffers permanent loss of function and disability.

### 3. What evidence will be required?

Your medical records will be key. The records are a (usually contemporaneous) record of the symptoms you reported to the doctor and in CES cases it is key to be able to show that the patient reported symptoms that could indicate cauda equina syndrome (the "red flags") such that other investigations like an MRI should have been arranged.

Your own witness evidence about your symptoms will also be important, as will any corroborating evidence from your friends or family. Sometimes we even use social media posts to demonstrate the issues the patient had, and which they say were reported to medical practitioners.

### 4. How do I demonstrate I've suffered an injury in a cauda equina case?

It is important in a cauda equina medical negligence case to be able to show a difference in a patient's symptoms between the date of the alleged negligence (when a diagnosis should have been made) and the time a diagnosis was actually made and treatment given.

In some instances, medical experts are not able to say that a delay in treatment has made a difference to the outcome for a patient, and in this scenario, it might not be possible to take a case forward.

### 5. What is the outcome of a medical negligence claim?

A civil claim, if successful, results in a payment of compensation for serious injury and disability and usually includes a sum for the injury, and sums to compensate for financial losses and the cost of meeting the needs that arise from the disability.

Depending on our clients' injuries, individual circumstances and needs, we can recover compensation to pay for:

- pain, suffering and disability;
- care (professional or provided by the family) and assistance;
- case management;
- therapies, such as:
  - physiotherapy;
  - occupational therapy (OT) ;
  - psychological counselling;
  - pain management;
- rehabilitation;
- home adaptations or additional costs of suitable accommodation;
- specialist equipment and aids;
- adapted vehicles, wheelchairs and additional transport costs;
- loss of earnings/pension;
- medical treatment and surgery;
- other losses and expenses arising from the injury.

#### **6. I want to know if I have a claim; what do I do next?**

Please speak to either of the specialist solicitors on the details below:

*Julie Marsh* - [Julie Marsh; Boyes Turner](#)

*Alex Dabek* - [Alex Dabek; Spinal Injury Lawyer; Bolt Burdon Kemp](#)