



**Supporting you** through  
medical negligence

**IM**, irwinmitchell



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If you or a loved one has suffered an injury or illness because of medical treatment, the emotional and physical impact can be life-changing.

We'll investigate your case to see if anyone was at fault for the negligent treatment you received and whether it was the cause of a serious injury or illness. We'll then assess its impact by requesting medical reports and expert opinions, to understand the support you'll need now and in the future.

Our focus is on your rehabilitation. We have close relationships with organisations and charities that can provide support. We'll help you to understand what's happened and help you to rebuild your life.



I felt I really had someone fighting my corner. Fingers crossed I don't need to make another injury claim, but if I ever did I'd go straight to Irwin Mitchell.

**Sally**

5\* Trustpilot review



This information relates to the law and procedures in England and Wales. Please contact us if you need advice about the law and procedure in other legal jurisdictions.

0800 023 2233

# What is medical negligence?

Medical negligence occurs when doctors or other health professionals cause an illness or injury by failing to provide an adequate level of care.

**There may have been a breach in medical standards or a violation of human rights, including:**

- Incorrect diagnosis
- Incorrect treatment
- Important symptoms ignored
- A delay in diagnosis or treatment
- Failure of a medical product or device.

**Duty of care**

Medical professionals have a duty of care for their patients, and you're entitled to reasonable standards. If these aren't met, you may be able to claim compensation if it can be proved that your doctor or other health professionals have committed a breach of their duty of care and this has resulted in you suffering an injury.

**Faulty kit**

Not all medical accidents happen because a professional has done something wrong. Sometimes a medical product, such as a drug or device like heart valves or pacemakers, can be faulty or fail.

We have a wide range of experience in product liability claims, in areas including:

- Blood products
- Breast implants
- Cataract lens implants
- Drugs
- Heart valves
- Human growth hormone
- Replacement hips.

**Human rights**

Everybody has human rights. In cases where an injury has occurred as a result of medical negligence, these rights have often been compromised.

**The Human Rights Act states:**

**Article 2** protects the right to life and can be cited when patients have received below-standard care, have been refused expensive drugs or are not being properly fed. Article 2 also demands that any untoward or unexpected deaths must be fully investigated, usually through an inquest.

**Article 3** forbids inhuman or degrading treatment. This may be relevant if you didn't give proper consent for treatment. It can also support cases where vulnerable people, such as the elderly or mental health patients, didn't receive adequate treatment.

**Article 8** states that there must be respect for private and family life and can be quoted in cases where confidential medical information has been disclosed.

**Article 14** bans discrimination of any kind and can be important in cases where age-based rationing of healthcare has taken place or patients have been discriminated against in any way.

## Your team of experts

By building a relationship based on openness and trust, we're best placed to provide the expert advice you need.

Our reputation for helping clients who've suffered injury or illness through medical negligence is second to none. Every year, we help many people who've been injured in this way get access to the best rehabilitation, medical care and support.

### Our service

Our highly-specialist team will put you at the focus of everything we do. They'll approach your case with care and consideration to make sure you get the best possible outcome.

### Our promises to you:

Access to our Court of Protection team if you or a loved one needs help managing finances or property and affairs

Access to rehabilitation and therapy services

An early investigation of who may be accountable

Early compensation payments where possible to pay for the best medical care, rehabilitation and to ensure you're financially secure

Expert advice on state benefits and access to advice on employment and other financial issues

Help from our solicitors in other areas of law, such as financial planning, Personal Injury Trusts, Wills advice, Power of Attorney, education and social care needs and advice.

### Campaign for improvements

We have a long history of campaigning for improvements in medical care and changes to policies and procedures.

We work with health professionals to offer study days and events that'll help people improve their knowledge of the law.

We also work with charities and organisations to raise awareness, lobby for change, and fundraise.





If I can do this at 11,  
what else can I do?

**Zach**  
Our client

## Zach's story

At three years old, our client Zach was diagnosed with cerebral palsy after suffering a brain injury at birth. He has difficulty with his mobility and cognitive development, and has epilepsy.

Following his diagnosis, Zach and his mum Claire were referred to us by Action Against Medical Accidents (AvMA) to investigate the care he received when he was born.

Early interim payments in his legal case meant he could see a speech and language therapist, occupational therapist, and physiotherapist. Having a team of experts around him makes a huge difference to how he feels and what he can do.

We later secured a settlement that gives Zach access to the lifetime specialist treatment, therapies, and equipment he needs in his day-to-day life.

### **A remarkable young man**

In May 2020 during Covid-19 lockdowns, Zach wanted to fundraise for the Epilepsy Society, who shared his JustGiving page on social media. Sadly, online trolls flooded the posts with flashing images trying to trigger seizures in people who have epilepsy.

Zach and his mum have since led a campaign pushing for new legislation to stop online bullying and prevent similar attacks from harming people with epilepsy in the future.

'Zach's Law' will officially come into effect in autumn 2023.

## When can I make a claim?

Normally adults must make a claim within three years of the date they first knew, or suspected, that they were injured as a result of medical negligence.

That limit can vary, and may be shorter or longer depending on the circumstances of your case. The rules relating to children are different - the three year period only applies after the child's 18th birthday. If you or your loved one is found to lack capacity then there may be no time limit in terms of bringing a claim, but it's always best to seek legal advice as quickly as possible. You should also be aware that any claims brought under the Human Rights Act must be started within one year of the incident taking place.

### **Do I have a case?**

All cases are unique, and we'll not know your chances of securing compensation until we look into the circumstances that caused your injury or illness. We'll assess your case free of charge, tell you what we think, and then leave you to decide if you want to go ahead.

### **Can you take over from my current solicitor?**

We have helped many people who've been dissatisfied with the advice or service they have received from their current solicitors. Our specialists have gone on to achieve a successful outcome for them, including gaining access to the best medical care, rehabilitation and compensation. If you decide to move your case to us, the process is very simple. We'll speak to your current solicitor on your behalf.

### **What are my chances of winning?**

Many people come to us who originally didn't think they had a claim. We've gone on to secure rehabilitation and financial security for their future.

We're realistic in our assessments, so when you contact us, we'll give you honest, straightforward advice on your chances of winning, based on the information you have provided. It's not possible to give a definitive answer on any case, and the more information we have, the more accurate an assessment we can make.





## What if a loved one has passed away?

If someone you love has passed away whilst receiving medical treatment, it's possible that their death will be investigated at an inquest.

Inquests can prove vital in helping to highlight problems within the system and make sure that improvements are made so other families don't have to suffer in the way that you have. They also play an important role in investigating the deaths of hospital inpatients or patients in secure units under the Mental Health Act.

It's crucial to seek legal advice before an inquest takes place. This gives your solicitor the chance to get medical records and other documents from the coroner before the court hearing. Your solicitor will

also be able to ask witnesses questions during the hearing. Inquests are open to the public, and often attract press and media attention, so your solicitor will make sure your interests are properly protected.

Depending on what evidence comes to light during the inquest, you may be able to pursue a subsequent claim for bereavement and a claim for damages. We'll thoroughly explain all your options with you after the inquest.



I cannot fault the help and advice from Irwin Mitchell that I received. They are very caring and respond to emails/calls very quickly. They fully explain the process and are extremely helpful and support you right through to the end.

**Kathy**

5\* Trustpilot review

## How much will it cost?

Contacting us for initial advice on your claim costs you nothing. If you go on to pursue a claim with us, we'll review all the options for funding it.

### These may include:

**Conditional fee agreement** – commonly known as a 'No Win No Fee' agreement

**Public funding/legal aid** – for children who have a severe disability as a result of neurological injury caused by medical negligence during pregnancy, birth or the postnatal period up to eight weeks old

**Legal expenses insurance** – you may have legal expenses cover to help with any legal costs as part of your household or other insurance

**Trade union** – if you're a member of a trade union, they may provide assistance for some legal issues.

Even if you have access to legal expenses insurance, public funding or trade union assistance, your best option may still be a 'No Win No Fee' agreement\*.





## ‘No win no fee’ agreements

If we recommend that a ‘No Win No Fee’ agreement\* is your best option, you can be assured that there’s no financial risk to you if you’re unsuccessful.

### If you win:

Your opponent will pay the majority of our basic legal costs and disbursements (e.g. court fees, medical reports)

Any costs not payable by your opponent will include:

- The premium for your insurance policy to protect you fully against any risk of legal costs
- Some of your basic legal costs which cannot be recovered from your opponent
- A ‘success fee’ which compensates us for the risk that we wouldn’t recover any legal fees at all if it was unsuccessful

You won’t have to pay a penny out of your own pocket until your claim has successfully come to an end and then any of the costs not paid by your opponent will be deducted from any compensation awarded to you

Any disbursements that can’t be recovered from your opponent will be covered by your insurance policy

To help you with your legal costs, the government has provided a 10% increase in the amount awarded to you for your pain, suffering and loss of amenity.

### If you lose:

We can promise you there’s no financial risk to you if your claim is unsuccessful\*

There will be no charge to you

You’ll be fully covered by your insurance policy for any disbursements

You’ll be fully protected by your insurance policy from any of your opponent’s legal costs.

We’ll do everything we can to protect and support you to proceed with your claim and we’ll keep you updated at all times. Remember, there’s absolutely no financial risk to you or your family if you’re unsuccessful.

\* To make a No Win No Fee claim, you need to enter into an agreement that’s linked to a suitable insurance policy. We’ll explain this in more detail before we start your claim.

## How much compensation will I get?

The amount of compensation you receive will depend on how seriously you've been injured, how that injury has affected your life, how much money you have lost or will lose as a consequence, and whether you'll need extra support in the future.

### **Individually assessed**

We'll advise you at the outset on how courts approach the assessment of compensation and how that'll apply to your case. It's important to bear in mind that everyone is different, and the consequences of the same injury will vary from person to person.

### **Keeping you informed**

As we learn more about you and your circumstances, we'll be able to provide a more accurate idea of the financial value of your claim. You can be assured that we'll do everything we can to recover the maximum amount of compensation available to you and organise payment terms to suit your immediate and ongoing needs.

As well as securing financial compensation, we'll help you and your family with the practical issues and day-to-day impact of your injury. We'll also make sure you get the best medical care and rehabilitation.



## What happens when I claim?

We'll investigate your case thoroughly by gathering witness statements and other relevant details about your injury or illness and ongoing requirements.

### **Investigation**

Once your witness statement, medical records and hospital background documents have been collated, they'll be reviewed by a number of medical experts. They'll give their opinion on the standard of care that you received.

It's likely that your solicitor will then arrange a meeting with the medical experts to discuss all of the information and establish if you have grounds to pursue a claim. This will be a joint decision and based on a number of factors. You'll have the opportunity to question the experts about any aspect of your treatment. If there's not enough information for the experts to give their

opinion, or if they think you weren't treated negligently, you'll be given the opportunity to talk through your treatment. This gives them a better understanding of the medical care you received.

If they're confident that you have a case, your solicitor will start a claim against your opponent.

### **Court settlements**

The vast majority of cases are settled before they go to court. If your case is one of the few that is to be decided by a judge, it's perfectly normal and we'll be there to help you every step of the way.



## What else can we help you with?

Whether it's business or personal we understand that everyone's situation is different.

If you need legal advice or support with financial planning, we're here to offer expert advice tailored to your circumstances, so you can focus on what really matters.

### We're here to help you with:

- Buying or selling a house
- Court of Protection
- Divorce, children and family matters
- Planning disputes
- Financial planning and wealth management\*
- Support with your business and employment issues
- Social, education and healthcare provisions
- Tax and trusts
- Welfare and healthcare matters
- Wills

\* Financial planning and wealth management services are provided by IM Asset Management Limited which is authorised and regulated by the Financial Conduct Authority. Its Financial Services Register Firm Reference Number is 402770.



Contact us:

📞 0800 023 2233

💻 [irwinmitchell.com](https://www.irwinmitchell.com)

# Useful contacts

We have close relationships with organisations and charities that can provide extra support when you need it most.

## Association of Personal Injury Lawyers (APIL)

A non-for-profit organisation fighting for the rights of injured people for over 25 years.

3 Alder Court  
Rennie Hogg Road  
Nottingham  
NG2 1RX

☎ 0115 9435 400  
✉ [mail@apil.org.uk](mailto:mail@apil.org.uk)  
🌐 [apil.org.uk](http://apil.org.uk)

## Action against Medical Accidents (AvMA)

The UK charity for patient safety and justice.

Freedman House  
Christopher Wren Yard  
117 High Street  
Croydon  
CR0 1QG

☎ 0845 1232 352  
🌐 [avma.org.uk](http://avma.org.uk)

## Bladder & Bowel UK

Information and advice for all adults, children and young people with bladder and bowel issues and for their families and carers, as well as the professionals who support them.

Burrows House  
10 Priestley Road  
Wardley Industrial Estate  
Worsley  
Manchester  
M28 2LY

☎ 0161 214 4591  
✉ [bbuk@disabledliving.co.uk](mailto:bbuk@disabledliving.co.uk)  
🌐 [bbuk.org.uk](http://bbuk.org.uk)

## Cauda Equina Champions Charity

A patient led, non-profit organisation, striving to raise awareness of Cauda Equina Syndrome and support people living with the condition. Based in the UK they have members from all around the world.

Unit 4  
The Weaving Shed  
Holmes Mill  
Greenacre Street  
Clitheroe  
BB7 1EB

☎ 03335 777 113  
✉ [info@championscharity.org.uk](mailto:info@championscharity.org.uk)  
🌐 [championscharity.org.uk/](http://championscharity.org.uk/)

## Different Strokes

Different Strokes is run by younger stroke survivors for younger stroke survivors.

9 Canon Harnett Court  
Wolverton Mill  
Milton Keynes  
MK12 5NF

☎ 0345 1307 172  
✉ [info@differentstrokes.co.uk](mailto:info@differentstrokes.co.uk)  
🌐 [differentstrokes.co.uk](http://differentstrokes.co.uk)

## Headway

They work to improve life after brain injury by providing support, services and information to brain injury survivors, their families and carers.

Bradbury House  
190 Bagnall Road  
Old Basford  
Nottingham  
NG6 8SF

☎ 0808 8002 244  
✉ [enquiries@headway.org.uk](mailto:enquiries@headway.org.uk)  
🌐 [headway.org.uk](http://headway.org.uk)

### Meningitis Now

Dedicated to fighting meningitis in the UK by investing in early stage research and providing support to those affected.

Head Office  
Fern House  
Bath Road  
Stroud GL5 3TJ

☎ 0808 8010 388  
✉ [info@meningitisnow.org](mailto:info@meningitisnow.org)  
🌐 [meningitisnow.org](http://meningitisnow.org)

### Spinal Injuries Association (SIA)

In the UK 2,500 people sustain a spinal cord injury every year. The charity's range of services support everyone who needs to access expert information, advice and support when they need it most.

SIA House  
2 Trueman Place  
Oldbrook  
Milton Keynes  
MK6 2HH

☎ 01908 604191  
✉ [sia@spinal.co.uk](mailto:sia@spinal.co.uk)  
🌐 [spinal.co.uk](http://spinal.co.uk)

### Steel Bones

Steel Bones helps amputee families live life to the full, helped by a proactive supportive peer community. The support they provide empowers the amputee and their family and friends helping in moments of stress and crisis.

Stirling House  
3 Abbeyfields  
Bury St Edmunds  
IP33 1AQ

☎ 01223 734 000  
✉ [hello@steelbone.co.uk](mailto:hello@steelbone.co.uk)  
🌐 [steelbone.co.uk](http://steelbone.co.uk)

### The UK Sepsis Trust

The UK Sepsis Trust exists to fight the life-threatening condition, stop preventable deaths, and support those affected by sepsis.

Azzurri House  
Business Park  
Walsall Rd  
Walsall  
WS9 0RB

☎ 0800 3896 255  
🌐 [sepsistrust.org](http://sepsistrust.org)

### Shine

Providing specialist advice and support for those affected by spina bifida and hydrocephalus.

Unit 4 - The Forum  
Minerva Business Park  
Peterborough  
PE2 6FT


☎ 0173 3555 988  
✉ [info@shinecharity.org.uk](mailto:info@shinecharity.org.uk)  
🌐 [shinecharity.org.uk](http://shinecharity.org.uk)


### Stroke Association

Stroke Association deliver stroke services across the UK, campaign for better stroke care, and investigate the causes.

Stroke Association House  
240 City Road  
London  
EC1V 2PR

☎ 0303 3033 100  
🌐 [stroke.org.uk](http://stroke.org.uk)

 0800 023 2233

 [irwinmitchell.com](https://www.irwinmitchell.com)



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