

One in ten patients admitted to hospital will fall victim to medical injury but only 1 % will make a claim says the British Medical Journal. A leading medical negligence lawyer explains the complaints process.

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According to the British Medical Journal one in ten patients admitted to NHS hospitals will fall victim to medical injury. In addition to errors by healthcare professionals, patients are also finding themselves at increased risk when in hospital, by exposure to superbugs such as MRSA and CDifficile and this is largely blamed on an over-stretched health service. With the party conference season now ended and each of the political parties expressing their commitment to the NHS, it is still felt that without radical changes to the healthcare service in the UK, the number of medical negligence claims is likely to carry on increasing.

Surprisingly out of the approximate 800,000 adverse clinical events that are recorded by the NHS each year, only 1% of the victims make a claim. Margarita Tyne, Partner and expert in Medical Negligence claims at the Bristol, Cardiff and Birmingham offices of national law firm, Simpson Millar LLP believes that victims are often unsure about how to go about making a complaint.

“If, as a patient you have a problem with medical treatment, the first port of call is to complain to the healthcare provider. In the case of a hospital you would go, direct to the NHS Trust and if a complaint is made against a GP, Dentist or Optician or other provider then you need to complain the practice manager” explains Ms. Tyne.

“Making a complaint will not always give a patient or family closure but it may provide some explanation of what has happened and sometimes can result in an apology or acknowledgment of inadequate treatment.”

The complaints procedure is not used for instigating disciplinary action against a member of staff but it may highlight a problem which the Trust might want to investigate internally and act upon.

So far as hospital treatment is concerned a complaint is normally made through the NHS Complaints Procedure to the Trust’s Chief Executive and should be put in writing so there is no doubt about its content and the date on which it is made.

This may often follow an informal verbal complaint which is not always followed up. Each hospital should make available details of its complaints procedure on request but it is important to be aware that a complaint should be made within 6 months of the date of provision of the treatment.

There is no time constraint placed on the Trust to encourage a swift response but some Trusts are now able to respond within 6-8 weeks, following investigations with treating clinicians. Other Trusts can take considerably longer than this.

Sometimes the Trust will arrange a meeting so that an explanation can be given of what has happened or there will be a formal written response.

Contact details for each NHS Trust and the address of the Trust's Headquarters can be found in local directories or via their website.

In relation to other healthcare providers, after a verbal complaint, a written complaint should be made and should be directed to the practice or complaints manager. Individual practices will have their own published procedures and an enquiry should be made of the practice as to whom the direct the complaint to.

On 1 April 2009, the health complaints service in England was streamlined with the introduction of a new body, the Parliamentary and Health Service Ombudsman. Once an individual has complained to the healthcare provider, if it has not been satisfactorily resolved then a complaint can be made to the Ombudsman which is a second and final point of contact and removes the need to complain first to the Healthcare Commission.

The complaint should be submitted on a complaints form within 12 months of the date of treatment and this can be found at www.ombudsman.org.uk

There are other organisations that can provide advice including the Patient Advice and Liaison Service (PALS) .Most Trusts have a PALS officer who can provide information, advice and support to patients and families. Details can be found at www.pals.nhs.uk. The Independent Complaints Advocacy Service (ICAS) is available throughout the UK and can help with writing letters, preparing for meetings as well as general support through the process.

Ms Tyne concludes:

"The above process is not a substitute for bringing a claim for compensation through the courts and if the complaints process gives no satisfaction then a claim can still be brought. It is important to remember that there are strict time limits for bringing a claim and usually Court proceedings must be issued before the 3rd anniversary of the date of treatment. However, where damage is not immediately apparent it can be possible for this deadline to be extended to the 3rd anniversary of knowledge of harm. There are special provisions relating to children and persons under a disability."

'In every case you should always seek specific advice about the relevant time limit and the information set out here is intended for guidance only.'

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