

## FACTSHEET

# Eye care – what to do when things go wrong

We all place our trust in doctors, nurses and other health professionals when we become ill or require health care, but if something goes wrong, it can be devastating for both you and your family.

If a mistake has been made by a doctor, nurse or other healthcare professional and they have failed in their duty to provide an appropriate level of care or skill, which has resulted in an injury, loss or damage, you may be entitled to pursue a claim for compensation.

### The patient's options

- Raise concerns directly with your doctor – since 2015 there is an NHS Duty of Candour.
- If an NHS hospital is concerned, consider the Patient Advice & Liaison Service (PALS). They are there to help and advise.
- Make a formal complaint by writing to the NHS Trust's Chief Executive under the NHS Complaints Procedure – PALS can help you with that.
- Obtain legal advice from an accredited specialist.

### The legal route – what you have to prove and how

- That the care provided was substandard.
- That the care caused, or materially contributed to impaired vision or a delay in preventing impaired vision.
- The extent of the injury and its financial consequences – this is different for everyone, but frequently very significant.
- The best solicitors know the best experts with national reputations experienced in providing expert opinions upon which a court can rely. It is a leading expert that will formulate a criticism, not a lawyer.

## Time limits

- You have one year in which to make a complaint under the NHS complaints procedure.
- You have three years from the date you knew, or ought to have known, a significant injury resulted from care in which to bring a legal claim. This can be disapplied in special circumstances where it is just and reasonable and no prejudice would result, but do not take the risk.

## What are the financial consequences?

Claims involving impaired vision / loss of vision can be very substantial. They include four components:

1. Pain
2. Suffering and loss of amenity
3. Past financial loss
4. Future financial loss and interest

Claims involving the total loss of vision can result in seven figure awards of compensation.

## Will I have to go to court?

Unlikely. Most cases settle at a point when the defendant's legal team conclude a claim cannot be successfully defended. The best way of avoiding court is for your solicitor to prepare the case with the best experts available so the defendant's solicitors realise their client's predicament as soon as possible.

## Funding

Conditional Fee Agreements (no win, no fee) are the best option. Combined with a specialist insurance policy available to solicitors with a track record of success, this provides virtually risk free ability to ensure those of ordinary means have access to justice.

## Will the healthcare providers learn from my experience?

They should do. All healthcare providers should operate an active clinical risk management programme continuously learning from patient experiences for the benefit of others, improving the service all the time.

In making a complaint, or bringing a claim, a patient therefore may not only achieve recompense for themselves, but actively improve patient care for others. We expect a lot from our healthcare providers. They are only human and occasionally make mistakes, but the best of them will learn from a patient's experience.

## The process

1. Contact a specialist solicitor for free initial advice
2. Solicitor obtains all health records
3. Independent expert instructed
4. Solicitor prepares letter of claim
5. Legal proceedings issued if claim has not been settled
6. Expert reports exchanged with the defendants
7. Most cases settle at this point, if not before

You remain an active partner in the process from beginning to end, able to comment and provide clear instructions based on advice.



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