

STEWARTS

Legal issues arising following serious injury or illness

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The Legal Service

A free and comprehensive legal service to patients and their families without any obligation to instruct Stewarts

- Tried and tested model based on ethical principles
- Peer reviewed, published and presented at national and international meetings
- Concept started at the London Spinal Cord Injury Centre, RNOH, in 2004
- 17 Legal Services in 11 NHS Trusts and 3 private facilities/charities
- 4 Legal Services in ICU and MTC settings
- Launch of the Pro Bono Department in 2012

Common legal and practical concerns

- > Financial issues (bills/credit cards/loans/mortgage payments)
- > Welfare benefits
- > Employment
- > Compensation
- > Care
- > Housing
- > Insurance
- > Powers of attorney/deputyship applications
- > Liaising with the police

“What do I do about the credit cards”

- Obtain 'To whom it may concern' letter from hospital
- Write to creditors to request accounts are frozen
- Income and expenditure
- Write off/repayment plans

“How do I access my loved one’s accounts?”

- Conscious patient – form of authority
- Unconscious patient – v difficult position
- Allow time for patient recover and later request mental capacity assessment
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- Power of attorney or deputyship?
- Fees?

“My insurer won’t pay out. What do I do now?”

- Review the policy terms and conditions
- Liaise with the insurer
- Complain?
- Complain to the Financial Ombudsman Service

“What about work?”

- Review contracts of employment (for both patient and family members)
- Self employed? Review insurance policies and advise on benefits
- Access to work and other grants
- Reasonable adjustments and disability discrimination?
- Unfair dismissal?

“What other help is available to me?”

- Welfare benefits
- Charity grants
- Adaptations and the disabled facilities grant
- Re-housing
- Care post-discharge

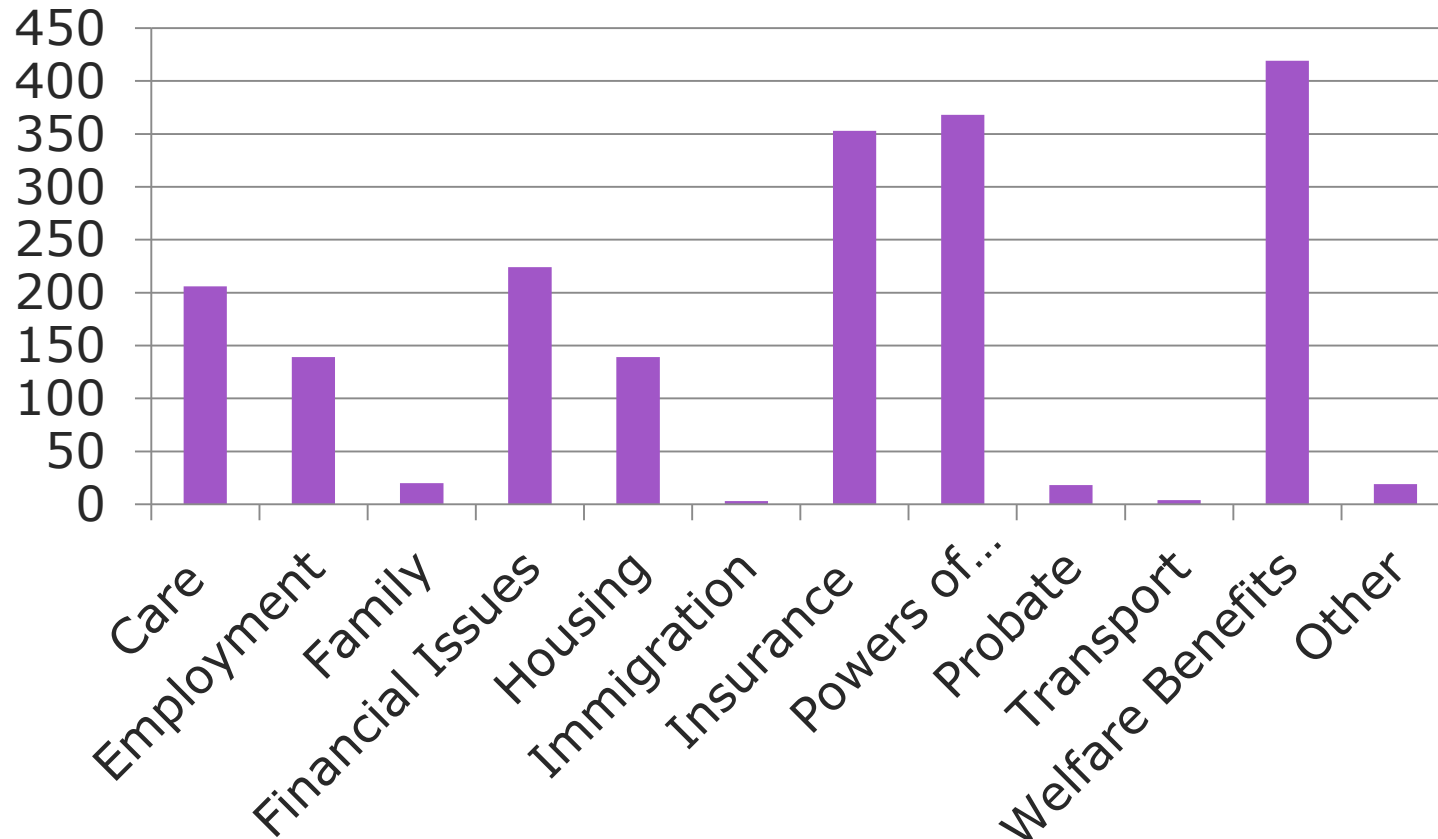
“Am I entitled to any compensation?”

- Preliminary advice
- Advice on criminal proceedings
- List of specialist solicitors
- Interim payments
- NHS cost recovery scheme

Data from the NICU & MTC Legal Service, UHS

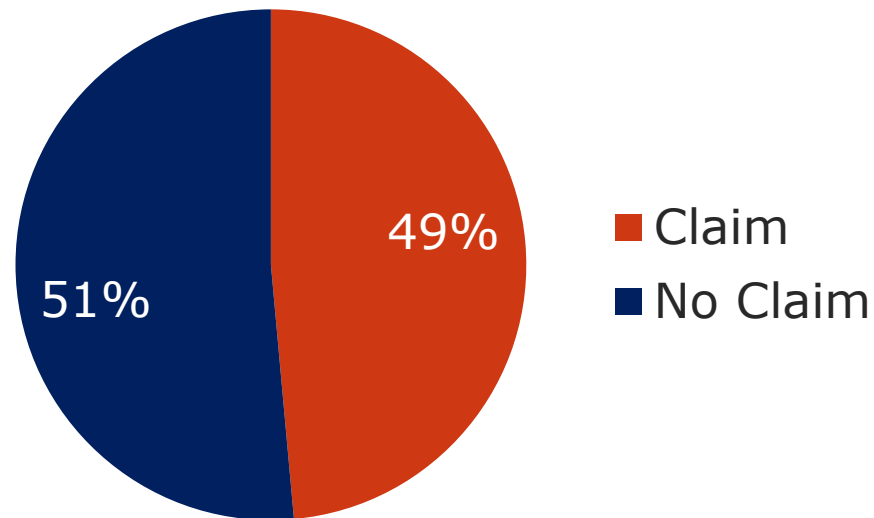
- A total of 551 patients have been referred to the Legal Service between January 2007 and December 2017
- Over 2,300 hours spent on Legal Service work

Non-compensation

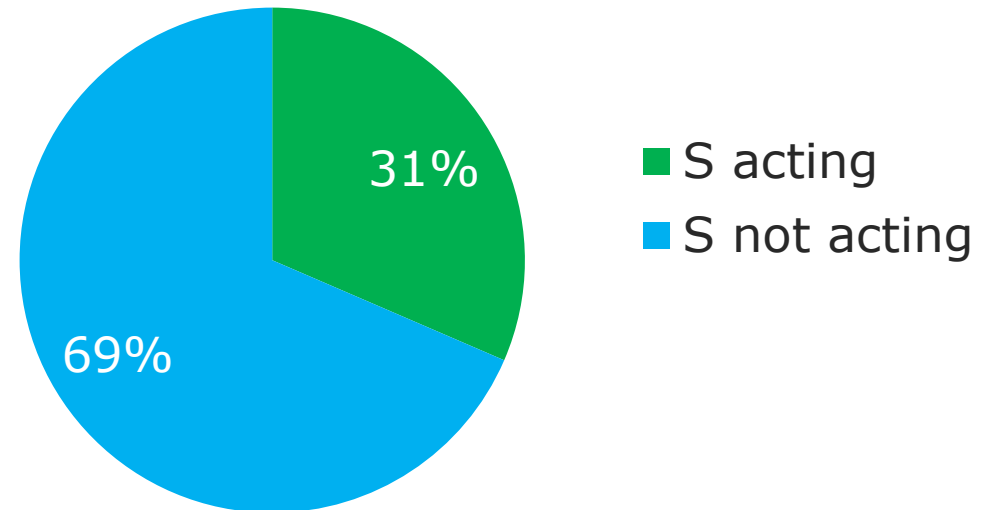


- 112 applications for powers of attorney/deputyship (fees would have been charged elsewhere)
- 68 patients were assisted with no-fault accident policies - £2.3 million recovered
- 224 patients assisted with financial issues with over £129,000 debt written off

Compensation



275/551 potential claims identified



Stewarts were instructed in 82 potential claims

Results continued

- Approximate total compensation - £128 million (£63 million annual payments)
- Interim payments – nearly £13 million

Medical–legal partnerships: 11 years’ experience of providing acute legal advice for critically ill patients and their families

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Abstract

Background: Medical–legal partnerships integrate lawyers into health care to identify and address legal problems that can create and perpetuate disparities in health for patients and their families. They have previously been utilised for patients who are at high-risk of being disadvantaged such as the elderly, the disabled and those affected by chronic diseases. We have used a partnership to address the legal needs of patients with acute, critical illness including major trauma.

Method: In 2007, a free, comprehensive legal advice service was established at University Hospital Southampton NHS Foundation Trust. The service is bound by strict guidelines which have been endorsed by NHS England. The legal service is specifically prevented from acting against the NHS. A retrospective analysis of the service over a period of 11 years was undertaken to look at the range of legal advice sought. Where a potential compensation claim against a third party was identified, the percentage of cases where the legal service was instructed was noted and the outcome for those cases was examined in further detail.

Results: Five hundred and fifty-one patients and or their families have been referred to the legal service. Of these, 343 had sustained major trauma. Over 2300 hours of free legal advice were provided on non-compensation issues, primarily related to welfare benefits, local authority assistance, obtaining power of attorney or seeking Deputyship from the Court of Protection and claims against existing insurance policies. Two hundred and seventy-five of the 551 patients (50%) were found to have a potential compensation claim against a third party. The legal service was instructed to pursue a claim in 82 cases. Interim payments of nearly £13 million were provided and £128 million of compensation has been awarded in 51 cases that have been settled.

Discussion: Medical–legal partnerships are well-established in the USA. We have demonstrated that in UK, there is a demand for early legal advice for patients who have sustained critical illness including major trauma. More data are required to identify the rehabilitation outcomes for patients who have received legal support. A similar medical–legal partnership should be considered at every acute NHS Trust.

Keywords

Medical–legal partnership, legal advice, critical illness, ICU, major trauma, compensation, rehabilitation

- Journal of the Intensive Care Society, April 2010 and March 2019
- Emergency Medical Journal, June 2017
- London Trauma Conference, December 2015

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