

# medical negligence

winter 2013/2014

# matters



attwaters jameson hill  
solicitors



Despite changes to the law earlier this year, which have been unhelpful to some medical negligence lawyers, Attwaters Jameson Hill continues to pursue cases successfully for clients. A firm our size has the specialist resources within its team to carry out, with both medical and legal input, a proper assessment of prospective claims. We avoid giving false hope of success, as nobody needs the stress and disappointment of a failed claim.

There was a time when very small law firms could offer a full service to clients across a broad range of personal or commercial matters. The law is now so complex that most legal staff are specialists rather than generalists. The timely merger last year of Attwaters with Jameson & Hill created an enlarged firm greater than the sum of its parts, by adding to the breadth of specialisms available without any dilution of expertise.

Some business mergers bring reductions in staff levels, but ours was no cost-cutting exercise. The merger was designed to give all clients of both firms access to the full combined range of services. In fact, we have maintained and sometimes increased staff numbers over the past year. My department has recently gained surgical error and misdiagnosis specialist Stephen Underwood, who qualified as a solicitor in 2007 and has many successes to his credit, including medical negligence cases relating to children.

We hope for further improvements in combating medical negligence within the system, but stand ready to help where we can when negligence does have adverse consequences.

With all best wishes,

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## Law change makes specialist advice crucial

Controversial changes in the law last April, which were opposed by trade unions, victim support groups, civil rights organisations and many in the legal profession, have affected access to justice in medical negligence cases and made it more important than ever to take advice from specialist solicitors before deciding whether to pursue a legal claim.

The changes brought in under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) had a dramatic effect on the old 'no win, no fee' system that often applied when medical negligence cases were pursued. LASPO has altered the basis of payment to the solicitors involved, depending on the outcome of the case. Pursuing a claim may now hold greater financial risk for the client and their solicitors, making it all the more important to establish a sound basis for a claim before pursuing it through the Courts.

Medical negligence, sometimes called clinical negligence, is among the various important legal specialisms. It is one in which Attwaters were expert before the merger with Jameson & Hill and this expertise is now available to clients across the enlarged firm and, of course, new clients. Very small firms of solicitors cannot normally offer the depth and range of services that a busy regional firm such as ours now provides.

Some firms may claim expertise but fail to back it up with impartial evidence of high standing in a particular field such as medical negligence. Our department and several key members of the team have been recognised for their achievements on behalf of clients in prestigious legal directories such as The Legal 500 and Chambers & Partners.

In addition to the directories are dedicated panels of legal professionals that have met the highest standards. Attwaters Jameson Hill partners Madeline Seibert and David Kerry are established members of the Law Society Clinical Negligence Accreditation scheme and of the Action Against Medical Accidents (AvMA) panel, and have had memberships renewed at the periodic reviews undertaken by those organisations.

Due to the LASPO changes, an awareness of litigation risks has greater importance. The ability of Madeline and others in our team to discern which cases have merit and are likely to succeed, and then pursuing them with expertise and commitment, has continued to deliver a high success rate. Initial enquiries are handled by trained medical staff, who understand the problems described and whether a successful claim is possible.

Once our firm has agreed to pursue a case, it will normally fund disbursements that arise as matters proceed; no payment is requested from a client up front. Thereafter, our close team, whose clients often come to us through personal recommendation, will ensure that claims are pursued proactively and to obtain the best outcome possible. A case can be jeopardised if procedural or tactical errors are made by a non-specialist; each of our clients receives a personal, specialist service from their own qualified lawyer.

So, if you feel you have good grounds to pursue a medical negligence case or know someone who could benefit from our assistance, please contact us first for an expert and realistic assessment of likely success.

## Merged firm kept eye on the ball

Implementing a seamless merger last year did not distract our firm's partners and staff from the vital task of providing exceptional client service across a wide range of legal specialisms such as medical negligence. Our expanded firm has just had an important Law Society service quality accreditation renewed and also gained exceptional praise in the latest editions of two prestigious professional directories, The Legal 500 and Chambers & Partners.

Law Society 'Lexcel' accreditation is granted to firms only after they have been closely scrutinised across various aspects of client service. The rigorous process is repeated periodically, before any firm's accreditation is renewed. The Law Society, the professional body for solicitors, describes Lexcel as 'the gold-star legal quality mark that tells you [the client] that you're in trusted, professional hands with your legal case'. Its testing and inspection process looks for the very best practice in client care.

In The Legal 500 directory, the firm's achievements in its Family, Personal Tax, Trusts & Probate, Court of Protection, Planning and Medical Negligence work all come in for special mention, highlighting the remarkable range of top quality legal services offered through four offices following the merger of Attwaters' Essex operation with that of Herts-based Jameson & Hill.

Managing partner Andrew Flannagan comments: *"I am delighted that our Lexcel accreditation has been renewed following a very demanding process of reassessment. It was always going to be challenging given the complexities of merging two busy firms, but thanks to the efforts of our partners and staff, our client service was assessed as meeting the highest standards. We will not drop our guard in the forthcoming period because this hard-won accolade is too important to put at risk through any hint of complacency."*

*"All credit is also due to those specialist teams that have been recognised by The Legal 500 as well as Chambers & Partners as excelling in their chosen fields. This recognition not only enhances the*

*reputations of those individuals and our expanded firm, but also highlights our specialism and expertise in different areas of law for the benefit of clients and other professionals.*

*"Court of Protection is appearing for the first time, which is all credit to Lesley-Ann Mayhew, the Partner dealing with this work and other colleagues in my Wills, Trusts & Probate department. This work has increased in prominence as an ageing population finds greater need for help with their finances and welfare, either through a Lasting Power of Attorney or by the Court of Protection appointing a Deputy to act on their behalf. This expertise will assist us also, in dealing with Medical Negligence cases relating to clients who have been awarded damages and need a Deputy appointed."*

*"Medical negligence is another specialism and the firm's senior partner in this area is my experienced and respected colleague David Kerry, who is rightly described in The Legal 500 as 'the consummate professional'. David and his team achieve heart-warming outcomes for people who have suffered as a result of unacceptably poor standards of medical treatment and care."*

Along with colleagues Rob Jameson (town & country planning) and Joyti Henchie (family law), David Kerry and fellow medical negligence partner Madeline Seibert have also been rated highly in the latest edition of the Chambers & Partners law directory.

Medical negligence team head David Kerry was duly reassessed and had his established top-level Band 1 ranking confirmed. Reported feedback on his strengths includes *'very precise and meticulous, and questions things more than most... acts on a wide range of matters and has a particular interest in psychiatric cases'*.

Madeline Seibert was confirmed as Band 2, a commendable achievement that reaffirms her place amongst some of the best in medical negligence work. One client described Madeline as *'an absolute stalwart... she stuck with me through thick and thin. The empathy she showed was unbelievable'*.

## Inquest hears of hospital fall tragedy

Attwaters Jameson Hill has been acting for the family of a woman who had suffered a head injury at her Epping home and then fallen on her face at the Princess Alexandra Hospital in Harlow.

Last November, the 41-year-old was treated initially by paramedics and then taken to PAH. Following her head injury, she should have received swift, specialist attention on arrival at A & E around 1.30am, but the necessary responses were delayed by over two hours. During this wait, she fell to the floor but was simply picked up and placed back on her bed by staff. She was later transferred to Queen's Hospital, Romford, where she died five days after the incident.

These and other details emerged at the patient's recent inquest at the Coroner's Court in Chelmsford. In a narrative verdict, coroner Caroline Beasley-Murray said: *"There were serious failings, including missed opportunities to provide treatment, in the care provided at the A & E department at Princess Alexandra Hospital. She should never have been put in a position whereby she sustained a second injury."*

Madeline Seibert, medical negligence Partner, represented the family and commented: *"It is of some comfort that from this tragedy lessons have been learned and steps taken to improve training and standards of care in the Emergency Department."*

## Recent cases settled

The medical negligence cases we handle involve various sensitive and complex issues that require a full investigation to explain why things happened as they did. Our goal is to achieve justice for our clients, as well as compensation in appropriate cases. We hope healthcare standards will improve as a result of lessons learned when such claims are brought. The following cases were among those settled during the third quarter of 2013.

We acted for the mother of a baby who tragically died at just under one month under the care of Luton and Dunstable University Hospital, after they failed to recognise that a catheter providing fluids and medication was going into the baby's liver. The claim, settled at £18,500, included damages for the baby's pain and suffering, bereavement damages for the mother and funeral costs.

A claim for a young woman, against Addenbrooke's Hospital, Cambridge, was settled for a lump sum and periodical payments totalling around £4.6 million. The claim related to brain damage she sadly suffered whilst an in-patient.

We recovered damages in five figures for the mother of a boy who died after orthopaedic surgery for a dislocated hip at a leading hospital. The case hinged upon a lack of informed consent. If appropriate advice about the risks of the procedure had been provided in advance, consent for surgery at that time would not have been given.

Another case involved negligent failure to diagnose and treat a compressive blood clot following spinal surgery, which left our client with cauda equina syndrome and associated mobility, continence and infection problems. The claim was settled at £135,000.

We secured £24,000 in a claim brought on behalf of the estate of a woman who prematurely died as a consequence of her Warfarin therapy being negligently withdrawn. Although she was terminally ill, her life was shortened by nine months, which might have been spent at home, receiving care, surrounded by her family.

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## More experts join our specialist teams

Attwaters Jameson Hill has been able to keep its staff levels up around the 100 mark since it was created through a friendly merger last year, despite the weak economy and increased competition amongst legal services providers.

Andrew Flannagan, managing partner explains: *"Our merger was timely because we completed it in advance of changes that opened up legal services to alternative providers. We did not fear the increased competition this would bring, but we were determined to confront the challenge and a successful alliance was key to that."*

*"Mergers sometimes lead to big staff reductions, but the two firms' areas of expertise complemented each other, so we had relatively little excess capacity caused by duplication. It has since been possible to recruit at all levels, from young apprentices through to senior solicitors. We now have 105 staff at the firm."*

*"Some other law firms have struggled to maintain staff numbers during the past two years, but we have added breadth to our range of services, enabling us fully to meet the needs of more private and commercial clients at our four offices in Hertford, Ware, Harlow and Loughton."*



Among the new faces appearing since the merger is highly professional and sympathetic medical negligence specialist Stephen Underwood (pictured above), who studied at Aberystwyth University and Chester College of Law, qualifying as a solicitor with a London firm in 2007. He has a particular interest in achieving for clients the best possible compensation following surgical error or poor diagnosis of serious conditions.

A member of the Association of Personal Injury Lawyers, Stephen has experience of a wide range of medical negligence matters and a particular interest in cases involving surgical error, delayed or misdiagnosis of serious

conditions such as cancers, and cases involving children – he has a very young daughter, so has empathy with a parent's viewpoint. He aims to be very approachable and likes to maintain friendly and supportive relationships with his clients while fighting for the fairest outcome to their case.

Other new recruits include Katharine Barkas and Alison Leaver in the Wills Trusts & Probate Department as well as Sara Stubbs and Polish-speaking Agata Bogalecka in the Personal Injury Department. The firm has also signalled its intention of continuing a policy of expansion by appointing Stephen Goddard to the new post of Business Development Manager.

Stephen Goddard has joined Attwaters Jameson Hill after two years running his own marketing consultancy. Before that, he gained many years experience of marketing and business development within professional services. He has held posts at major accountants PwC and KPMG as well as heading the business development team of a large firm of solicitors in East Anglia. He has a track record of innovation that has seen him implement strategic alliances, re-brands and technological solutions for the benefit of law firms and their clients.

## Cycling solicitor beats sponsorship target

Our last newsletter reported our departmental head David Kerry's plans to raise £2,000 for the charity Action Against Medical Accidents (AvMA). We are delighted to reveal now that thanks to the generosity of his sponsors he exceeded his target by more than a quarter, with a tally of just over £2,550 going to help those affected by medical negligence – victims and their families – to get justice.

David rode in the annual 'Ride London-Surrey 100' event, covering 100 miles in south London and the challenging Surrey Hills in the remarkable time of 4 hours 36 minutes. Such enthusiasm for rapid cycling goes back a long way, to when he was a teenager living in Trinidad; he was only denied a place in their 1966 Olympic cycling squad by a bout of chickenpox. These days he is a keen club rider and relishes charity challenges.

*"Ride London-Surrey 100 was an enjoyable but testing event," David admits. "I had to remind myself at times that I was doing this in support of AvMA's admirable objective – that harm caused in healthcare is reduced to an absolute minimum and where, if a medical accident does occur, patients and their families are dealt with honestly and fairly, and get appropriate support.*

*"I am so grateful to all my sponsors, who included family, friends, colleagues, clients and business contacts. I also thank them for their warm, encouraging and humorous messages on my fundraising web page at mydonate. It was great to exceed my target figure by such a margin, with a bit of help from the Gift Aid effect."*

## Madeline passes strict AvMA review

Attwaters Jameson Hill medical negligence partner Madeline Seibert has recently had her hard-won membership of the Action Against Medical Accidents (AvMA) referral panel renewed for a further two years until September 2015

Accredited AvMA panel membership depends upon a strict assessment with biennial reviews and is open only to *"specialist clinical negligence lawyers who have acquired the necessary skills, experience and knowledge to be able to provide AvMA's referred clients with the level of expert service expected of AvMA panel membership, including a knowledge of the wider issues relating to medical accidents and healthcare policy."*

Following her most recent two-year review, the AvMA assessors said that Madeline had *"demonstrated her commitment to widening and deepening [her] experience in maximum severity cases...and using good tactics on cases and [has] a keen awareness of litigation risks."*



## contact us...

If you need help or advice about a medical negligence issue, contact our highly experienced and sympathetic team based at our Harlow office. Our range of other legal services is offered by our other offices in Hertford, Ware and Loughton.

Harlow office: 01279 638888

Rothwell House, West Square, Harlow, Essex CM20 1LQ

Hertford office: 01992 554881

72-74 Fore Street, Hertford, Hertfordshire SG14 1BY

Ware office: 01920 460531

60-62 High Street, Ware, Hertfordshire SG12 9DA

Loughton office: 020 8508 2111

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