



THE MOST EXPERIENCED
PERSONAL INJURY FIRM IN THE UK

Clinical Negligence

About Thompsons' Clinical Negligence Unit

The [clinical negligence](#) team at Thompsons forms part of the most experienced [personal injury](#) firm in the UK.

The clinical negligence unit at Thompsons includes solicitors who are members of the [Solicitors Regulation Authority's](#) specialist clinical negligence panel, [Headway](#), specialist group [APIL](#), [The Spinal Injuries Association](#) and the [AvMA](#) referral panel.

We are franchised by the [Legal Services Commission](#) to undertake publicly funded clinical negligence [compensation claims](#).

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Medical Accidents

Introduction to medical negligence and clinical negligence

Most medical and nursing treatment in the UK is of a high technical standard and most health service staff are dedicated professionals working to tight deadlines and budgets to deliver care. Nevertheless not everything goes well and mistakes happen.

Not all the unexpected or disappointing outcomes to treatment are the fault of the healthcare professionals. All treatment carries some risk and patients are warned of serious risks. Still, English law awards compensation for things going wrong if it can be proved that the treatment was negligent – meaning the standard of care fell below the standard generally accepted to be reasonable for that area of medicine.

Before you take legal action

The first steps to take after suffering clinical negligence

You must seek advice quickly because there are strict time limits for making complaints, often as little as 13 weeks.

When you talk to one of our specialist [personal injury Lawyers](#) we will advise that before starting legal action against a medical practitioner that you talk to them first. There may be a genuine misunderstanding, or a problem in communication, that can often be resolved at this stage.

If this fails, we will advise you to make a more formal complaint. To complain about a GP you must write to the Practice Manager and to complain about a hospital you must write to the Complaints Manager. Making a complaint is useful if your concerns are about procedures or behaviour that you want put right, or you want an apology for the way you have been treated.

Taking legal action for clinical negligence

Advice on how to begin legal action

If you have been injured as a result of negligent medical treatment you may have a right to [compensation](#). You will have to obtain a lawyer to act for you because clinical negligence cases are always fiercely defended.

Clinical negligence is a highly specialist area so it is important that your solicitor has specific experience in this field. The clinical practitioner or authority will be defended by experts and you must have equal specialist advice. We offer this specialist clinical negligence advice and experience.

Compensation is payable in many circumstances, the following stories are just some examples:

Undiagnosed Fracture

We helped a delivery driver who fell from the back of a lorry and sustained a serious injury to his wrist. The hospital said it was a sprain but in fact there was a [fracture](#) and by the time the fracture was diagnosed it was too late to operate effectively (clinical negligence). The driver was paid compensation for the loss of full use of his hand. Although the compensation helped, his life was never the same again as before the accident.

Cerebral Palsy

Thompsons fought the case of Holly Thornton who was starved of oxygen during delivery causing cerebral palsy. The hospital denied liability throughout but following a settlement conference shortly before trial, settled the claim. The clinical negligence award was split between a lump sum released immediately to fund the purchase of a specially adapted bungalow and the balance to be invested to produce an annual periodical payment commencing on Holly's 18th birthday for care, special therapies and special needs equipment.

Surgical Error

When a man of 75 had cataract surgery, the needle used for local anaesthetic pierced his eyeball and he lost the sight in that eye. Another surgery was carried out to try and repair the damage but this was not successful. To help with the terrible change to his life, Thompsons helped him to settle his clinical negligence claim.

Types of Clinical Negligence cases

Information about different types of clinical negligence claims we can deal with

Below, you will find a list of the most common types of clinical negligence together with information about how to begin a personal injury compensation claim. If you cannot find the information you require here, telephone us on 08000 224 224 for assistance or complete one of our online [compensation claim forms](#).

[Birth Injuries](#)

[Misdiagnosis](#)

[Surgical Errors](#)

[Medical Establishments](#)

[General Clinical Negligence Issues](#)

Time limits for bringing a court action

How long you have to make a clinical negligence claim

Legal action must be taken **within three years** of the date you first knew, or could reasonably have been expected to know, that you have suffered an injury caused through someone else's fault.

In special cases, the court has discretion to allow cases to go ahead out of time. For **injury to children**, proceedings have to be started before the 21st birthday. Time does not run out while a person is mentally incapable.

You should visit a specialist clinical negligence solicitor as soon as possible since there is a vast amount of work to be done before bringing a clinical negligence case.

Clinical negligence and the law

A guide to the Law

There are a number of elements to establishing that medical treatment was negligent. The patient has to prove (on "*the balance of probabilities*") that the clinical practitioner has been negligent. This means showing that the standard of care fell below what could "*reasonably have been expected*". Medical opinion often differs over treatment for a particular ailment and it is a valid defence if it can be shown that the treatment was in accordance with the views of "*a responsible body of medical opinion*".

Even if you can show that the standard of care was negligent, you still have to prove that the negligence actually caused the injury. This is often the trickiest part of the case. The medical practitioner may claim that the injury arose from the illness itself and not from the treatment; or that the injury would have come about in any event. Detailed medical evidence will be called with specialists arguing for each side.

Pursuing a claim - the procedure

A brief outline of how a clinical negligence claim is made

Clinical negligence claims, in a similar way to personal injury claims, are made up of a series of hurdles. If you don't clear one hurdle, you don't move onto the next.

We have to get your **medical records** and check them.

Specialist medical experts will then be instructed to consider whether or not the treatment was negligent, and if it was, what damage it did.

If we consider that we have enough evidence to prove the case for clinical negligence, then we advise starting court proceedings immediately.

Clinical negligence cases can be settled by negotiation without the need to proceed to a full trial but they are rarely resolved without starting court action.

Paying for medical negligence cases

Information about the costs involved in a clinical negligence case

In most cases there is no cost to you to pursue a clinical negligence action. Because we specialise in clinical negligence cases, our legal experts in the majority of cases can decide with the information you give them and a review of your medical records whether or not a claim can be made. Our clinical negligence experts understand the medical procedures, the risks and where a careless act can cause harm. A clear decision made early by our expert is crucial to ensure that you will not have to spend money to make your claim.

In exceptional cases there may be medical expert evidence on your medical records needed to establish whether you have a clinical negligence claim. Before we incur the costs of any medical expert evidence that might fall to you to pay we will agree with you the exact costs to be spent, the timing of payments, the reasons those costs need to be spent and the risks involved. We would not spend any money without your agreement. When medical expert evidence supports your clinical negligence claim and we pursue your claim successfully we can recover all of your costs.

Due to different procedures and Law Society regulations different funding arrangements may exist in Northern Ireland.

How can I run a clinical negligence case at no cost to me?

Your clinical negligence case could be funded by:

A Trade Union

Legal Aid

Legal Expenses Insurance a) for example in your household policy

b) after the event insurance, sometimes called no win no fee

Trade union - if you or a member of your family are a **trade union member** you should always contact the union to see if special terms are available.

Legal aid (Public Funding) - is available for clinical negligence cases through a limited number of franchised firms. Thompsons is a franchised firm. Public funding may be free, or there may be a financial contribution to be made, and so we will discuss with you whether you want to pursue your clinical negligence claim this way and we will guide you through the process.

Legal Expenses Insurance:

a) Many people already have this on a home insurance policy for example. You should check your home insurance policy early, even if you are not going to claim until later, because many insurers require early notification of possible claims. Contact our specialist clinical negligence solicitors for advice about funding your case in this way if you are thinking of registering your claim (don't delay).

b) After the event insurance with a Conditional Fee Agreement; if you have no suitable alternative means of funding your clinical negligence case AND we think, based on our experience and what you tell us, that you have a winnable clinical negligence case, we will offer you an agreement after our initial consultation. The agreement is called a Conditional Fee Agreement (CFA) and is sometimes known as a "no win no fee agreement". Under a CFA, we will not charge you for the work we do on your behalf, if your clinical negligence claim is unsuccessful.

This is how a CFA works;

1. You will give us all the information you have about your experience and injuries
2. We will obtain access to your medical records
3. We will try to determine the strength of your clinical negligence case at this stage
4. If our legal expert advises you to make a clinical negligence claim we will recommend that the case is insured. If we win, we will claim all your costs from the other side and apart from exceptional cases you will get 100% of your clinical negligence compensation. If we lose, your insurer picks up the bill for everything: the premium, our costs, the cost of any experts and the defendant's costs. Any case with exceptional circumstances would be discussed in detail with you in advance.
5. If we cannot insure the clinical negligence case at this stage, we may need expert evidence on your medical records to establish whether you have a claim for clinical negligence. Before we incur any costs of expert evidence that might fall to you to pay we will agree with you the exact costs to be spent, the timing of payments, the reasons those costs need to be spent and the risks involved. We would not spend any money without your agreement. When expert evidence supports your clinical negligence claim we will obtain insurance on your case. If we win, we will claim all your costs from the other side and apart from exceptional cases you will get 100% of your compensation. If we lose, your insurer picks up the bill for everything: the premium, our costs, the cost of any experts and the defendant's costs. Any case with exceptional circumstances would be discussed in detail with you in advance.

Clinical Negligence Cases we have fought and won

Details of some medical negligence claims we have dealt with

We helped a delivery driver who fell from the back of a lorry and sustained a serious injury to his wrist. The hospital said it was a sprain but in fact there was a **fracture** and by the time the fracture was diagnosed it was too late to operate effectively. The driver was paid clinical negligence compensation of £200,000 for the loss of full use of his hand. Although the compensation helped, his life was never the same again as before the accident.

We fought a case for a widow who tragically lost her husband, who worked as a hospital porter. He was told by his GP he may have **lung cancer** and was referred to hospital for tests. The hospital told him there was nothing to worry about. The family blamed the GP for giving them a false alarm but two years later he was proved right. By then sadly it was too late to operate and he died. His widow made a clinical negligence claim and received substantial damages from the hospital. The compensation was to make up for the earnings her husband would have made,

had he survived. His wife was very grateful for the compensation but devastated about the loss of her husband.

We helped a nurse with a clinical negligence claim who developed complications after a routine gynaecological **operation**. The problems were not detected before a lot of harm was done and to compensate for this life-changing mistake, she received £200,000.

When a child suffered **cerebral palsy** due to failure by midwifery staff to act on the signs of distress when his mother was in labour, Thompsons decided to assist by making a clinical negligence claim. The court approved payment of an immediate lump sum of £1,150,000, plus payments for his care and equipment needs for the rest of his life at £40,000 per annum until 18, and £110,000 per annum after that.

We fought a clinical negligence case for a man whose **gall bladder operation** went badly wrong when the common bile duct was severed. He received £35,000 for the pain and suffering of the additional operations he had to undergo to deal with the mistake. He also won the right to go back to court for further awards if he developed complications in the future, requiring more major surgery or even a liver transplant which would be possible.

Thompsons helped a security guard who attended hospital for routine prostate surgery and was the victim of clinical negligence. Unfortunately, a locum surgeon made a disastrous **error during surgery** resulting in the patient suffering permanent incontinence and psychological damage. The hospital quickly admitted liability for the botched operation and he was awarded £65,000 to compensate in only a small way for the drastic changes to his life.

We fought a clinical negligence case for a retired railway engineer who was admitted to hospital with a suspected heart attack. Treatment was commenced but he received a massive drug overdose which caused fatal **brain damage**. The hospital admitted liability and an out of court settlement of £30,000 was reached for his widow. The compensation in no way made up for the loss of her husband but did make coping without him a little easier.

Thompsons helped the family of a one year old child who became drowsy with a temperature and was taken to A&E over a bank holiday. They did some tests but decided there were no symptoms of meningitis and sent her home with a sponge so that the parents could take a urine sample. Next morning they came back with the sample but by then she was pale, unresponsive and had a temperature. Within a short space of time she developed a classic meningitis rash and was rushed into recovery. It was too late however and she suffered widespread brain damage. She was awarded £1,200,000 clinical negligence compensation to pay for the care she would need for the rest of her life.

We provided legal assistance to a woman who developed complications during labour and had her baby delivered by caesarean section. This caused damage to her bladder and uterus, which resulted in a hysterectomy being necessary and also emergency surgery to repair the bladder. As a result she suffered from a stroke, a heart attack and was left with disabling chronic fatigue syndrome. The woman was unable to care for herself or family and was obviously unable to carry any more children. She settled her clinical negligence claim for £800,000.

When a man of 75 had cataract surgery, the needle used for local anaesthetic pierced his eyeball and he lost the sight in that eye. Another surgery was carried out to try and repair the damage but this was not successful. To help with the terrible change to his life, Thompsons helped him to settle his clinical negligence claim for £22,000.

Thompsons fought the clinical negligence case of Holly Thornton who was starved of oxygen during delivery causing cerebral palsy. The hospital denied liability throughout but following a settlement conference shortly before trial, settled for £1,340,000. The award was split between a lump sum of £780,000 released immediately to fund the purchase of a specially adapted bungalow and the balance to be invested to produce an annual periodical payment commencing on Holly's 18th birthday for care, special therapies and special needs equipment.

We helped a lieutenant who served in the **royal navy** in the Falkland Islands when he suffered a fracture to his right ankle. The fracture was misdiagnosed as a sprain for a period of some 6 months. He did eventually undergo surgery to repair the fracture when it was discovered but due to the delay developed secondary arthritis and was medically downgraded and discharged from the navy. The clinical negligence case settled for £100,000 to reflect pain and suffering and loss of earnings and loss of promotion prospects within the navy.

Thompsons helped a 62 year old woman who had a kidney removed in error after doctors wrongly told her that she had cancer. She received £33,650 in clinical negligence compensation after the Hospital admitted full liability for the error. For a period, the woman thought she was going to die and also underwent an unnecessary operation to remove an important organ.

We recovered damages for the parents of a child who was disabled due to the catastrophic brain injury that she suffered at the time of her birth. The brain damage was caused as a result of the midwives' negligence, and the child died shortly after her 7th birthday. The family received clinical negligence damages of £275,000.

Thompsons fought for the family of a young mother who died as a result of a GP's failure to diagnose a DVT. The lady died when a clot travelled into her lung and blocked the supply of her blood to her heart. Her husband and 2 children received £275,000 in clinical negligence compensation to help them carry on without her.

We helped a 60 year old woman, who was a health care worker at the hospital where she underwent surgery, which led to her hand clawing and she received £200,000 in clinical negligence compensation. The hospital failed to try other methods of treating the condition and then failed to refer her for physiotherapy following the operation. She was forced to give up her job and the compensation made up for her lost earnings and changes to her life.

Many clinical negligence cases are shocking and attract national coverage. Amongst other Thompsons cases the BBC have covered one was regarding **misdiagnosis of cancer** and another was about the amount of **compensation awarded to accident victims**.

Comments from our clients

Extracts of letters from clients who have used our clinical negligence expertise

"Your efforts have made an enormous difference to our family, giving us renewed hope for the future and removing any doubt from our minds that we may in some way have been in some way responsible for J-'s condition. You have dealt with us sympathetically and helped us through this difficult time with your hard work and encouragement when we were ready to give up"

"I am writing not just because you managed to get settlements for me, but also for all your help and kindness. You have always had time and patience, and always answered my queries quickly. As I was feeling quite fragile it was nice to have someone on my side."(settlement £3,500 clinical negligence compensation)

"Thank you for all your help and guidance in this matter, you have made a difficult process much easier for me". (settlement £34,500 clinical negligence compensation)

"How much I appreciated your professionalism in your dealings with me and the confidence you instilled in me, I wouldn't hesitate to recommend both yourself and Thompsons as a solicitors in which you can place your trust" (£8,000 clinical negligence compensation)

"Without people like you, people like me would be trampled on" (settlement for £24,633 clinical negligence compensation)

"a big thank you for the excellent service you have provided and also for the kindness and understanding of yourself and your staff. It has been a very difficult time.."(£50,000 clinical negligence compensation)

"I cannot thank you enough for the hard work and diligence with which you have handled this case" (£16,750 clinical negligence compensation)

"although I am disappointed I believe you did everything you could for me" (advised not to make a clinical negligence claim)

"I am particularly grateful that you took the time and trouble to contact me following my last call to your office.. your letter detailing the outcome of your discussion with senior colleagues has settled my mind. I now feel at peace with my decision not to pursue this route." (advised not to make a clinical negligence claim)

News on Clinical Negligence Issues

Recent News Stories published about Clinical Negligence

Over the years, Thompsons have helped many people who have suffered as a result of clinical negligence or medical negligence. We have also campaigned with the help of **UNISON**, to make Herceptin available to sufferers of Breast Cancer who would benefit from it.

We have published important stories within the **News Desk** section of our website and links to a selection of these can be found below:

- 23rd March 2009 - [Failed sterilisation causes heartache for mum](#)
- 2nd January 2009 - [Car accident victim wins compensation](#)
- 24th December 2008 - [Compensation for substandard gall bladder operation](#)
- 6th November 2008 - [Young Mum Calls for Monitoring of Contraceptive Implant](#)
- 10th September 2008 - [Ealing Primary Care Trust to pay damages to the family of a Southall woman who died as a result of the negligence of district nurses](#)
- 21st August 2008 - [Cambridge University Hospitals NHS Trust to pay substantial compensation to nurse from Huntingdon after Breast Screening Service failed to detect her cancer](#)
- 8th February 2008 - [National Institute of Clinical Excellence \(NICE\) to make chemotherapy drug Alimta available on the NHS](#)
- 9th January 2008 - [Woman left paralysed by hospital failings secures £900,000 in compensation](#)
- 26th November 2007 - [A step forward for life extending cancer drug, Alimta](#)
- 14th September 2007 - [Alimta Appeal](#)
- 31st August 2007 - [Thompsons Solicitors to raise money for Action Against Medical Accidents \(AvMA\)](#)
- 9th July 2007 - [NICE to make mesothelioma drug Alimta available on the NHS](#)
- 19th February 2007 - [North East MP David Anderson is questioning the Department for Health over the future of mesothelioma drug Alimta](#)
- 8th January 2007 - [Thompsons Solicitors is strengthening its Clinical Negligence department with the appointment of Gillian Muir](#)
- 8th January 2007 - [No faith in Trust as widower finally wins admission of liability for wife's death after seven years](#)
- 21st December 2006 - [The National Institute for Clinical Excellence \(Nice\) has dismissed an appeal on mesothelioma drug Alimta](#)
- 15th December 2006 - [Discharged Army soldier wins damages for surgical error](#)
- 12th December 2006 - [Janet Allan from Thompsons Solicitors has been appointed to the Law Society's Clinical Negligence Panel](#)
- 7th December 2006 - [Mother of scarred baby says hospital chose wrong method of delivery](#)
- 19th October 2006 - [Thompsons offers funding for clinical negligence claims](#)
- 17th October 2006 - [Asbestos victims and their families lobby Parliament for funding of Alimta for mesothelioma treatment](#)
- 14th September 2006 - [Thompsons supports MRSA charity](#)
- 12th October 2006 - [MPs show support for continued access to life extending cancer drug](#)
- 28th August 2006 - [Commons campaign for mesothelioma drug, Alimta](#)
- 23rd August 2006 - [Thompsons Solicitors and UNISON welcome NICE final guidance on Herceptin](#)
- 7th August 2006 - [Compensation from Nursing Home for Clinical Negligence](#)
- 1st August 2006 - [MRSA or methicillin resistant Staphylococcus aureus](#)

28th July 2006 - [Thompsons Solicitors Condemn Delay In Provision of Breast Cancer Drug Herceptin](#)
20th July 2006 - [Research into drug to extend Mesothelioma sufferers' lives funded by North East Research Fund](#)
12 June 2006 - [Thompsons and Trade Union campaign for Herceptin](#)
7th June 2006 - [Thompsons call for life-extending medicine to be available for mesothelioma victims](#)
24th May 2006 - [Summer 2006 - secondary regulations of the NHS Redress Bill to be drafted](#)
22nd May 2006 - [Mother's three year battle for apology for son's death](#)
12th April 2006 - [Thompsons and UNISON Welcomes Herceptin Ruling](#)
13th February 2006 - [Patient at Princess Royal Hospital, Hull secures £200,000 compensation for clinical negligence](#)
19th December 2005 - [Bristol breast cancer patient threatens court action to get Herceptin drug](#)
19 December 2005 - [Asbestos cancer drug postcode lottery victory](#)
28th November 2005 - [Clinical negligence victim wins damages](#)
12 September 2005 - [Addressing the nation's health – postcode lottery continues in the North East](#)
8th February 2005 - [Lawyers' warning on uninsured cosmetic surgeons](#)
2nd April 2003 - [Widow demands enquiry into Chesterfield hospital failures](#)

Articles on Healthcare and Clinical Negligence Development

Articles about developments in the Healthcare Field

You can keep up to date with the latest in healthcare and clinical negligence developments by viewing articles written by the clinical negligence team.

To read the articles published to date visit our [Clinical Negligence Articles](#) page.

We have also published a brochure about Clinical Negligence. To read this, visit [Clinical Negligence Brochure](#).

More help

Lists organisations and specialists who can help you.

- The [General Medical Council](#) (GMC) hears complaints about serious professional misconduct by a GP or hospital doctor. The address of the GMC is: 178 Great Portland Street, London W1N 6JE. Tel: 020 7580 7642.

- The [Health Service Ombudsman](#) investigates, reports and makes recommendations to the government about the activities of health authorities. The Ombudsman will not investigate any complaints until the NHS complaints procedures have been exhausted except where that is unreasonable.

To contact the Ombudsman, you should write to:

- *England* The Health Service Commissioner for England, 11th Floor, Millbank Tower, Millbank, London SW1P 4QP. Tel: 020 7217 4051
- *Northern Ireland* Parliamentary Ombudsman and Commissioner for Complaints, 33 Wellington Place, Belfast BT1 6HN. Tel: 028 9023 3821
- *Scotland* The Health Service Commissioner for Scotland, 28 Thistle Street, Edinburgh EH2 1EN. Tel: 0131 2257 465
- *Wales* The Health Service Commissioner for Wales, 5th Floor, Capital Tower, Greyfriars Road, Cardiff CF10 3AG. Tel: 029 2023 0785

- The [Patient's Association](#) is a campaigning body which is a useful source of advice and assistance for individuals who are not happy with their treatment by the NHS. Their address is: 18 Victoria Park Square, Bethnal Green, London E2 9PF. Helpline: 0845 608 4455

■ **Action for Victims of Medical Accidents (AVMA)** advises those who have been injured as a result of clinical treatment. Their address is: 44 High Street, Croydon, Surrey CR0 1XB. Tel: 020 8291 2793.

■ **National Institute for Health and Clinical Negligence** is an independent organisation responsible for providing national guidance on promoting good health and preventing and treating ill health.

■ **The General Dental Council** is an organisation which regulates the dental profession in the UK.

■ **The Nursing and Midwifery Council (UKCC)** is an organisation set up by Parliament to protect the public by ensuring that nurses and midwives provide high standards of care to their patients and clients.

All information correct at the time of publishing – February 2008
Thompsons Solicitors is regulated by the Solicitors Regulation Authority