

APIL (Virtual) Clinical Negligence Special Interest Group Meeting

8 May 2020



Speakers

- Jerard Knott, Serious Law, Coordinator
- Christopher Melton QC, Byrom Street
- Ann Pimm, Summerseat Physiotherapy



Coronavirus

- Coronavirus - You can find everything you need on a special page on the APIL website here: www.apil.org.uk/covid-19
- The APIL office is operating almost entirely remotely, and there are contact details for all the teams on the Covid-19 page.



Claims against the NHS

- There will not be any claims unless medical professionals consider that treatment was substandard in the prevailing circumstances. This has always been the case with medical negligence claims, long before Covid-19 was heard of.
- Typical MDU?



Claims against the NHS

- PPE? Employers Liability Claims
- Defendants – expect claims based upon PPE Regulations 1992
- Sufficient risk assessments?



Claims against the NHS

- Coronavirus Immunity? Floodgates – MDU?
- We're not aware of any cases and it is far too early to predict what might happen.
- It is not appropriate to have a discussion about suing the NHS while it is in the middle of a crisis.



Online Proceedings

- Members' firms can now sign up to a pilot protocol to issue proceedings online in the county court by writing to
- onlinecivilmoneyclaims@justice.gov.uk
- with the e-mail addresses of up to ten members of the firm who would like to use the service.



APIL's Future Strategy

- Was meant to be launched at Annual Conference which is now postponed until November.
- Strategy will be launched in Summer instead.



Civil Liability Act

Reforms to whiplash claims and the small claims court will not be implemented until April 2021.



Bereavement Damages

- Government refused wider consultation for England and Wales.
- Extended to cohabitants of more than 2 years.
- Inflationary rise to £15,120 effective 01 May 2020.



Birth Injury Investigations

Ongoing investigations at Shrewsbury and East Kent show exactly why we do this job. We should not be embarrassed as clinical lawyers. Our role is to help those who have been wronged by negligence. What has been apparent unfortunately throughout these inquiries is that cover up has been prevalent.



Early Notification Scheme

- Work is continuing in the background to get more information for members.
- If you have not done so, very useful update from Jodi Newton in April's PI Focus.



NHS Complaints

- NHS Investigation of Patient Complaints is now on hold.
- A client can still send in a complaint but it is likely that it will not be actioned until post Covid-19. This is due to the increased clinical commitments of various medics.



New Claims

- Quiet A&E departments.
- NHSR likely to fudge figures.
- Delayed attendance due to thinking clients are helping NHS – creates breach of duty and causation problems.



Summary

Errors often occur due to insufficient training, underfunding and understaffing. This underfunding and understaffing has been evident throughout Covid-19. It will be interesting if the needed investment continues post virus. The previous political malaise shown to the NHS may no longer be acceptable.

