Patient Claim Line.com

Medical Negligence Review

A Whitepaper by Patient Claim Line

Contents

Introduction

Over the last few years, Patient Claim Line has faced many challenges; from facilitating a fully remote workforce under the pressure of the pandemic, to finding new and innovative ways to serve our clients during these very difficult times. But through all this, one thing we have learned is how resilient we are as a business and how our core value of genuine customer care continues to shine through.

This year we have continued to secure life-changing settlements for our clients. We have asked the big questions about the future of face-to-face healthcare, shone the light on high profile legal developments, and examined the far-reaching impacts of medical misdiagnosis. Here, we have pulled together a summary of our year in review – including case studies, investigations and an interview with our Head of Medical Negligence, Christian Beadell.

Georgia Briscoe
Director of Medical Negligence

Is there still a need for face-to-face consultations?

Is there still a need for face-to-face consultations?

At the start of the year, we examined the need for face-to-face consultations in the NHS. Little did we know that Covid-19 restrictions would soon mean that face-to-face consultations would be all but scrapped – paving the way for new communications channels and processes across the healthcare sector.

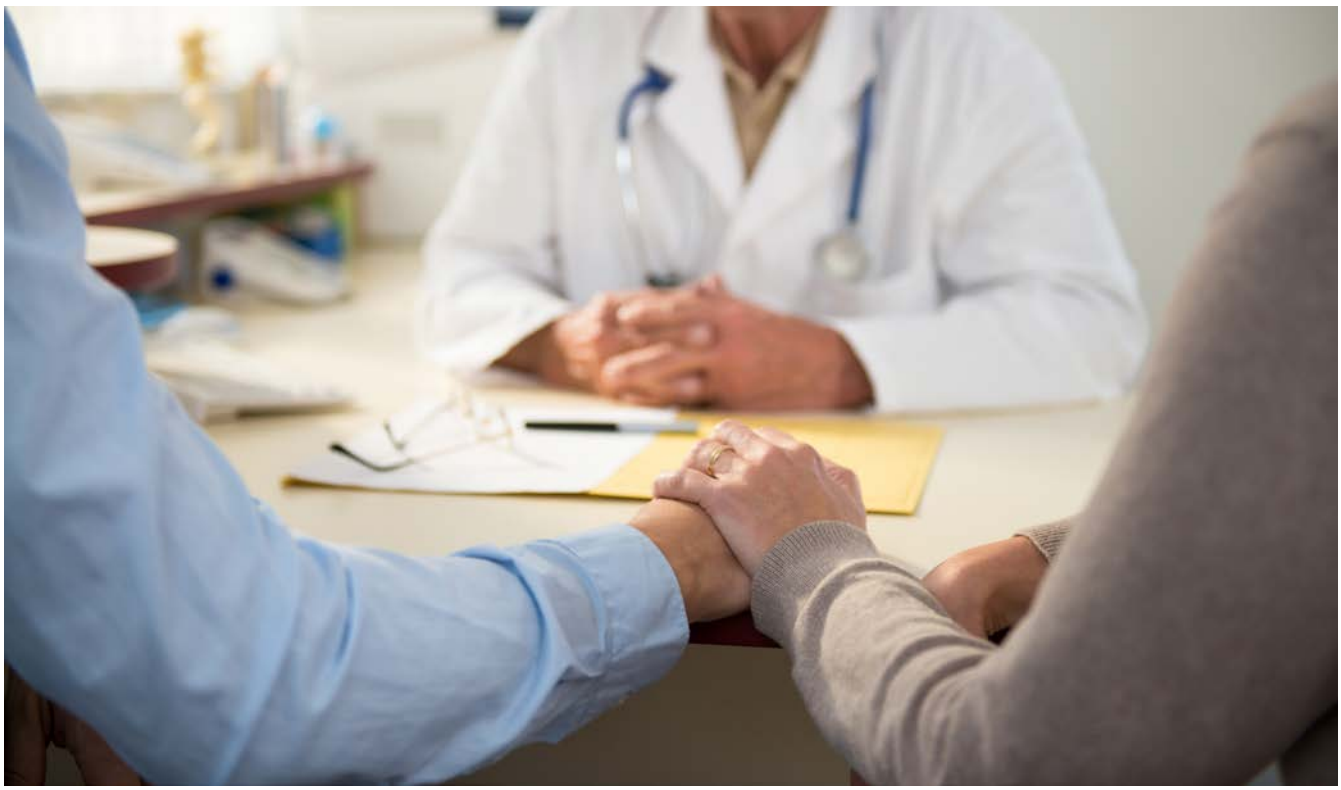
Here we examine the NHS' interpersonal communications, the impact of human interaction and whether there is still a need for face-to-face consultations today – particularly as we navigate what has become the 'new normal'.

Booking a face-to-face appointment

Before the impact of the Covid-19 pandemic, the NHS advised that it would eventually move away from face-to-face appointments. An unsustainable demand for NHS services meant that the availability of timely appointments at the hospital and GP surgeries became a nightmare for doctors and patients alike.

According to Laura Donnelly, Health Editor at the Telegraph, officials pledged that within five years, one in three hospital appointments would be scrapped, with patients being offered Skype consultations or smartphone alternatives.

This move was temporarily accelerated when the pandemic hit, with the demand for more virtual services coming into play. Let's take a look at our pre-Covid analysis and concepts for a more flexible NHS service – and how these may be adapted in 2021.

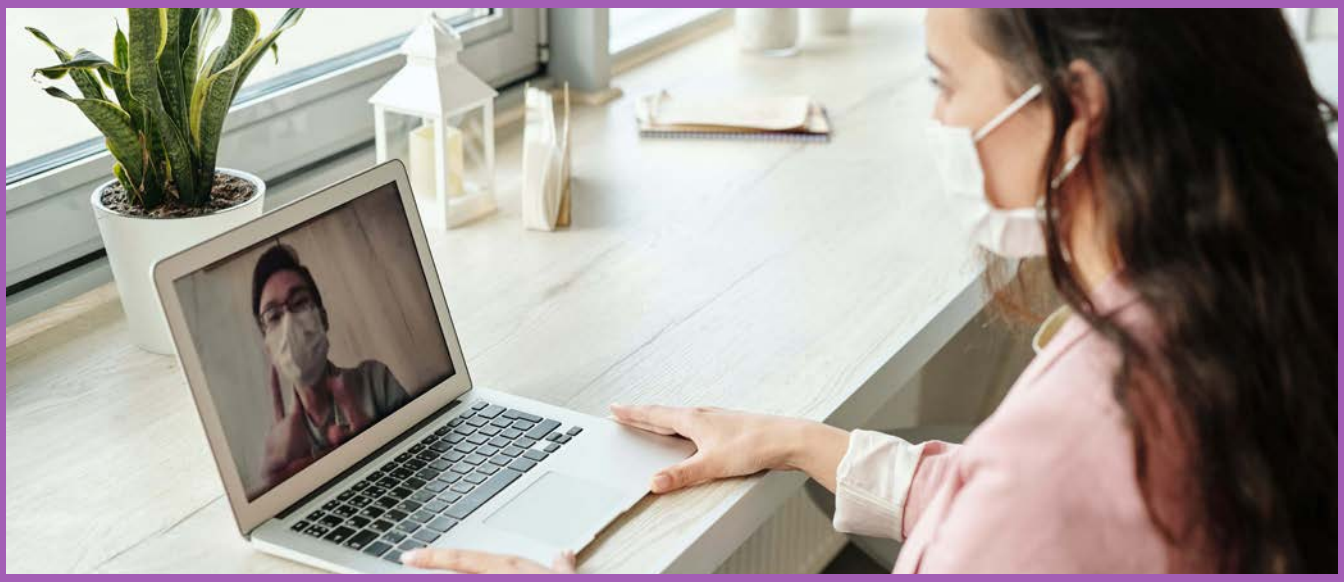


1. Alternative virtual communication

To alleviate the pressure, an increasing number of services were already being provided virtually at the start of 2020. And of course, the primary argument for this and all tech-led solutions is; do patients always need to be physically examined?

For patients, getting into a car and driving to a hospital in order to sit in a waiting area for hours, (as appointments are frequently behind schedule) to ultimately spend a few minutes with a doctor, is frustrating to say the least. Virtual communications help to ease that frustration on those able to comply.
For patients who cannot drive, transport to hospital is even less straightforward. They may have to rely on public transport, which is not always on time, or require hospital transport, which is not always available – adding hours onto an already lengthy day.

Ultimately, patients doing all this when they are feeling unwell, or when their mobility is hampered through a disability, find themselves even more uncomfortable. This is also why, both pre & post-Covid, there is a valid argument around the relevance of face-to-face consultations.



2. Patient access and travel restrictions

There is also an environmental perspective to consider. The need to travel to and from appointments is not recommended and improvements can be made to make appointments more environmentally friendly.

On the other hand, some of the most vulnerable people in society are dependent on their access to the NHS, be that their GP or emergency care. It is therefore concerning that this key demographic is likely to become more isolated by a growth in technology.

According to a report published by York Press, patients now 'fear' booking an appointment with their local GP.

We must also remember patients are not the only people involved here. The pressure of having an oversubscribed clinic list, and a full waiting room is likely to impact negatively on the mental and physical wellbeing of the doctor involved.

3. Are group appointments the ideal solution?

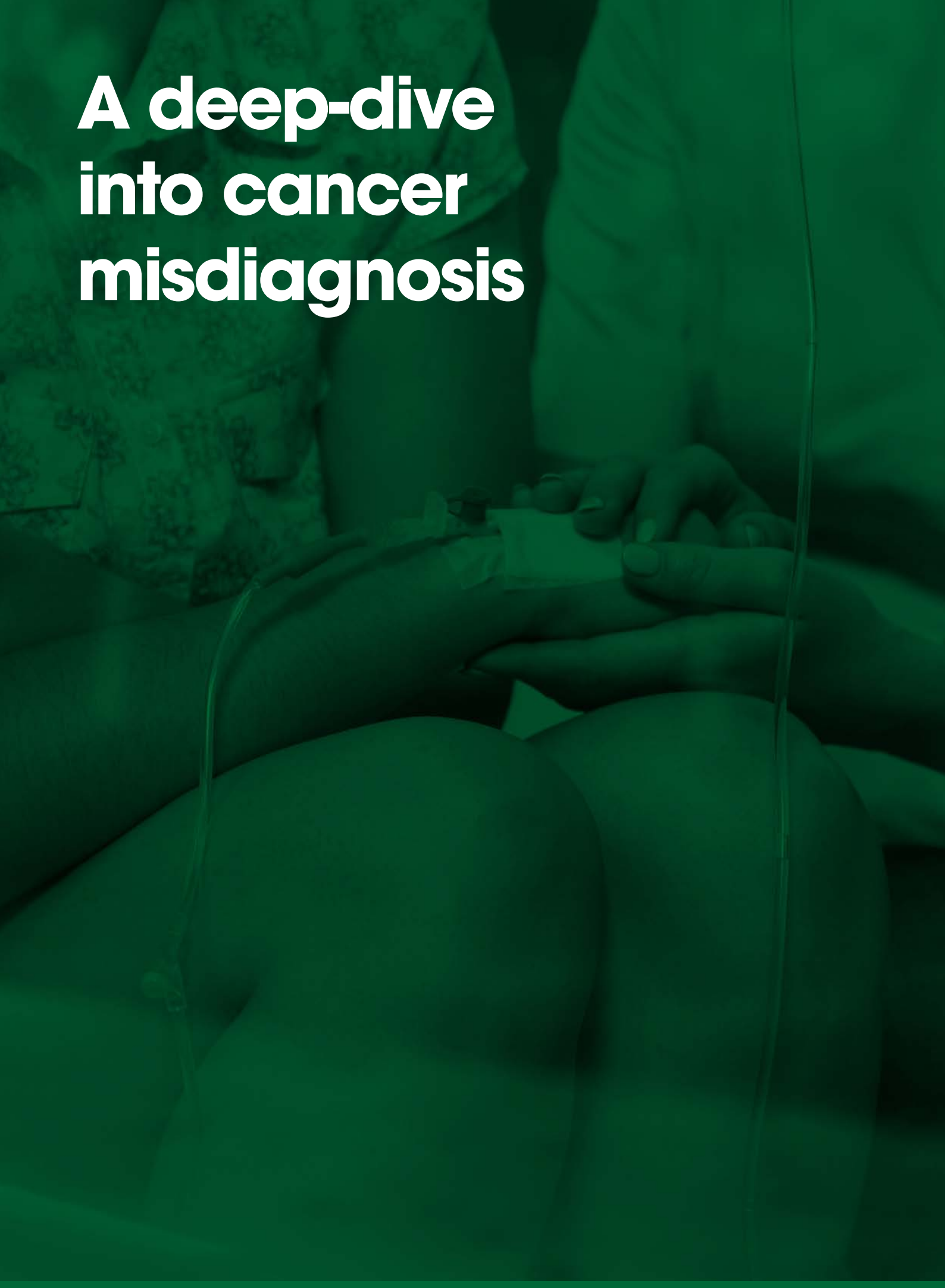
Certainly not in the midst of a pandemic, but either side of this current situation it is worth considering; will an overworked doctor examining patients under time pressure promote the highest standard of patient care? In the experience of many, the answer is 'no'.

As an alternative to the use of technology, some GPs had started to introduce group appointments at the start of the year.

The idea is that patients with similar medical conditions attend together to see the GP over a lengthier session. Whilst these appointments are a novel approach to access to GP appointments, it is a step away from individualised healthcare. Not all those who attend will feel able to discuss their most personal issues, and unless they are able to freely access alternative appointment arrangements, there is a risk of this approach jeopardising individual health.

In conclusion, if appointments can be allocated elsewhere, or appointments can be conducted in a more time efficient manner, there is a hope this will improve productivity, and of course, save the NHS money. No doubt the changes forced upon the NHS during 2020 will need to be reviewed and re-evaluated once the threat of Covid-19 has passed, and there may well be some positive steps forward for patient communications in 2021.

A deep-dive into cancer misdiagnosis



A deep-dive into cancer misdiagnosis

Cancer misdiagnosis is believed to be on the rise. According to an All Can report, 4 in 10 patients receive the wrong diagnosis before they are correctly diagnosed. Whilst the NHS reportedly completes two million urgent cancer tests a year, and the majority of these are successful in identifying cancer, unfortunately sometimes delays, mistakes and misdiagnosis can occur.

But what does this mean for those affected?

Cancer misdiagnosis occurs when a medical professional delivers the wrong cancer diagnosis. This could mean that they diagnose cancer symptoms as another illness or miss the symptoms entirely. For example, throat cancer may have similar symptoms to tonsillitis – but a misdiagnosis of this magnitude would likely have devastating consequences.

There are 200 types of cancer; many of which have similar symptoms to other illnesses and diseases. This means that in some cases, medical professionals may misdiagnose a patient's symptoms. Misdiagnosis is clearly harmful, as it may lead to a patient receiving the wrong treatment for their specific cancer, or their symptoms may even be dismissed and left untreated – leading to a worsening of the condition and a more degenerative prognosis.

Cancer misdiagnosis occurs when a medical professional delivers the wrong cancer diagnosis. But a misdiagnosis of this magnitude would likely have devastating consequences.

Delayed or late diagnosis of cancer

When a person suffers from a life-threatening disease, it can feel unbearable having to wait for appointments, scans and test results. However, there are guidelines that the NHS has put in place to make sure that cancer patients get treated quickly.

If a doctor suspects that their patient has symptoms related to cancer, they may arrange for an urgent referral. In the UK this means they should see a specialist doctor within 2 weeks.

The NHS also sets targets to make sure patients are treated within a reasonable time. They aim to begin treatment no longer than 2 months after receiving the urgent referral. There should also be no longer than 31 days between meeting with a doctor to decide the treatment plan and beginning the treatment.

At the start of 2020, the NHS was working towards the Faster Diagnosis Standard (FDS). FDS aims to reduce the delayed diagnosis of cancer however, patients are warned that they may still experience a delay. The FDS means that patients with a 2-week urgent referral, or those sent through the urgent screening program pathway then they should be treated within 28 days.

The impact of Covid-19 on cancer treatment

Interestingly, the impact of Covid-19 has meant that non-urgent referrals were cancelled during the peak of the outbreak, with the aim of being rescheduled as the strain on the NHS dissipated. This is an extremely delicate balancing exercise. There has been no guidance for what decisions a clinician should make for individual patients, so there is likely to be differences in approach across the country.

There is also a clinical decision to be made for many patients. Chemotherapy for example, can make a patient immunosuppressed or immunocompromised, meaning their immune system is not as good at fighting infection. Cancer patients receiving chemotherapy are more likely to become seriously ill if they catch Covid-19. Some blood cancers and cancer affecting the bone marrow can also make a patient even more susceptible to infections. Clinicians are therefore being asked to conduct a balancing exercise for all patients. They need to consider on the one hand, the degree that the cancer patient's immune system has been/ will be compromised by their treatment or underlying health conditions; on the other hand, the risk that their cancer is not treated 'optimally', such as altering when they have surgery or the chemotherapy regime they receive might be changed; and this has to be weighed against the risk to the patient if they get Covid-19 when on these treatments.

Hospitals sadly also have to consider whether they have the necessary resources to safely deliver cancer treatments, including surgeries. As the number of staff in the NHS requiring to self-isolate increases, the number of staff available for such procedures and treatments will diminish. Particularly during the peak of the outbreak, staff that previously frequented oncology wards were gradually redirected to the front lines to treat those with Covid-19. There have been concerns about supply of some chemotherapy drugs, which appear to be unsubstantiated.

The prioritising of cancer surgeries is more difficult. During the pandemic, many cancer surgeries were not considered an emergency. They are certainly classified as urgent, but some surgeries, particularly where the cancer is incurable though not causing symptoms that immediately require intervention, may be classified as non-emergent.

The big questions for these patients will be whether or not their cancer treatment has been compromised by any delay and/or change in their treatment. This will be a waiting game for these patients. A short delay in treatment is unlikely to have a significant impact on a cancer patient's prognosis but there will be patients who do unfortunately suffer as a result of the delay.

Cancer misdiagnosis & delayed diagnosis case studies

Here are some examples of clients we have represented for cancer claims (names have been removed for confidentiality purposes).

- **Wrong chemotherapy treatment**

A 77-year-old man received £12,500 in cancer misdiagnosis compensation after he was wrongly treated with 3 rounds of chemotherapy.

The Princess Alexandra Hospital NHS Trust in Essex misdiagnosed the 77-year-old man, who had prostate cancer, with bladder cancer leading to the incorrect treatment. The misdiagnosis meant that there was a delay in the correct treatment and a lot of pain and suffering was caused.

- Non-Hodgkin's lymphoma misdiagnosis

A man from Gateshead received an out of court settlement for cancer misdiagnosis.
The man, who does not want to be named, was given antibiotics for neck pain and a lump on his back by his GP. Over a year later, due to his persisting pain, the man visited a different doctor where he was urgently referred for a scan.

It took over 18 months of pain, loss of earnings and negative psychological effects until the man was diagnosed with Stage 4 Grade ½ follicular non-Hodgkin's lymphoma and his lump removed.

- Death due to misdiagnosis

A family received a seven-figure sum in compensation after their father paid the ultimate price due to missed cancer diagnosis.

The family went through a painful journey before they were given the diagnosis of the father's prostate cancer. The father's doctors confused his symptoms with other illnesses, meaning that he experienced a missed diagnosis of cancer. The process, which lasted years meant that the father's cancer had sadly become terminal.

Our team's work meant that the family received compensation after the father's passing. Though nothing can ever truly compensate for the loss of a loved one, the family received an apology from the doctor which was very important to the family. The cancer misdiagnosis claim amount has allowed the family to feel more secure and diminish financial worries for the future.

In summary, misdiagnosis and delayed diagnosis is a serious concern due to the devastating impact it can have on the patient and their family. The cross-symptoms of various cancers to other illnesses and diseases can exacerbate the impact of a wrong cancer diagnosis, and it is important for patients to be persistent with their GPs, to understand their own bodies and to never be afraid to ask for a second opinion or a specialist referral.

21-year-old receives five-figure sum following negligent action

Case Study

21-year-old receives five-figure sum following negligent action

A Patient Claim Line Case Study

The Incident

A 21-year-old man from Birmingham has received a five-figure settlement after medics incorrectly treated a fractured finger. Staff at the University Hospital Birmingham NHS Foundation Trust, negligently treated Luke Perry for a baby Bennett fracture with a splint, instead of operating on it.

Initially, Luke was seen in the hot hands clinic, October 2016, where he was reviewed by medical professionals. A splint was applied, and he was advised he could remove the splint after two weeks when going to be.

However, as a result of the Trust's recommendations, Luke suffered the following injuries:

- A grossly mal-united 5th metacarpal base fracture
- Ongoing pain, with pain in right hand about 50% of the time, usually when being used or in cold and damp weather
- Tenderness on palpation in region of 4th and 5th carpometacarpal joints at the base of the 4th and 5th metacarpals

The Case

Senior Solicitor, Patricia Hitchen and Litigation Executives, Juliette Griffiths and Amy Kirk, took on Luke's case. After exploring the case in detail, the legal team deduced a number of concerns. Firstly, the medical team that first saw Luke had performed minimal investigations. On top of that, they believed Luke wasn't given a sufficient follow up before he was discharged back to his GP.

In December 2016, Luke was then reviewed by the consultant plastic and hand surgeon who apologised to both Luke and his mum, expressing that "the service has not been as good as he would have liked."
There was also a delay in surgery of two years whereby Luke had to take time off work.
Patricia explains:

"I was concerned about an entry in Luke's records regarding weakness in his dominant hand. As a labourer, I knew this would have a lasting effect on his career."

The Aftermath

Prior to his injury, Luke was really looking forward to advancing his career as a dryliner. Unfortunately, the months that followed saw Luke struggle to keep up with the training course's pace. He can no longer lift and carry heavy things and has difficulty using drills and other power tools. Consequently, Luke has now given up hopes of pursuing this as a sustainable career.

Doctors confirmed that it is unlikely that there will be any further deterioration, although his present symptoms and restrictions remain a daily challenge.

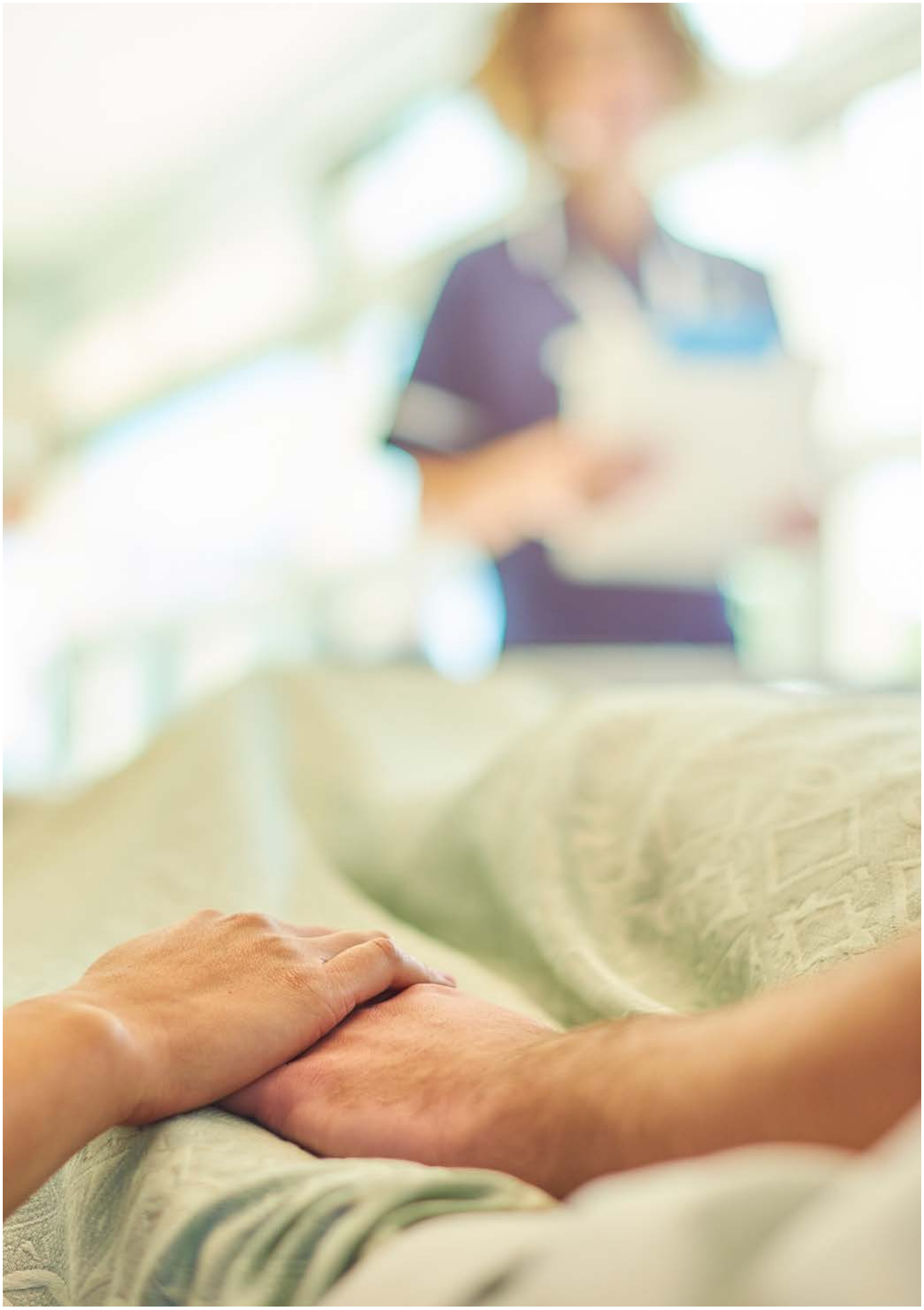
The Outcome

The case concluded that University Hospital Birmingham NHS Foundation Trust failed to recognise the severity of the injury. The team uncovered that Luke was treated too conservatively with a Futura and Bedford splint. In the build up to the settlement, the Trust admitted treatment should have been surgery. However, they did argue the long-term effects of ongoing pain and a weak grip was a result of the fracture itself, not the negligence.

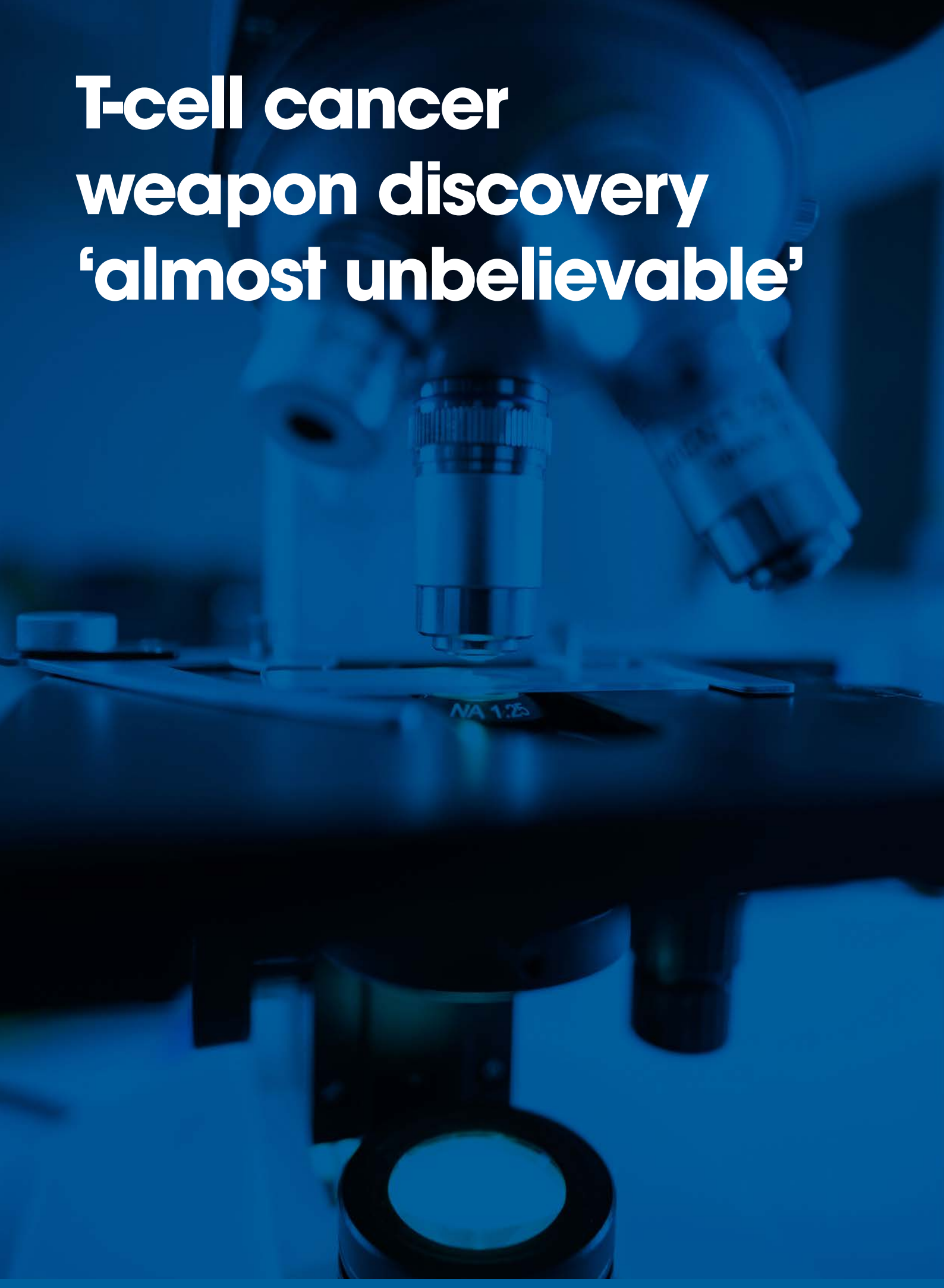
Speaking on reflection of the case, Amy said:

"This case highlights the importance of early and thorough assessments. If Luke had been treated correctly from the start, then the long-term impact could have been very different.

We hope that the settlement will go some way to helping Luke rebuild his life and finding his future career after three years of uncertainty."



T-cell cancer weapon discovery ‘almost unbelievable’



T-cell cancer weapon discovery ‘almost unbelievable’

A new T-cell discovery could become the greatest weapon yet in defeating cancer, according to Chartered Legal Executive, Amy Kirk. Back in January of this year, we were awed by a newly-discovered immune cell in the blood stream. A specialist team at Cardiff University scrupulously tested the immune cell; killing breast, lung, prostate and other forms of cancers.

Take a look back at Amy’s response at the time of discovery.

“Sadly, I have dealt with numerous cancer cases,” Amy says. “Avoidable delays in diagnosing a patient’s cancer has a devastating impact on a patient’s prognosis and quality of life.

“However, this T-cell discovery really is positive news. In fact, it’s almost unbelievable.

“We have all been affected by cancer in some way and the statistics to back this are chilling.”

Cancer’s deadly numbers

One in two people born after 1960 in the UK will be diagnosed with some sort of cancer during their lifetime.

- Every day nearly 990 people receive a cancer diagnosis.
- Around 450 people die from the disease.
- Every two minutes someone is diagnosed with cancer.

Source, Macmillan

Understanding existing cancer therapies

T-cell therapy is the removal and modification of immune cells before a return to the patient’s bloodstream.

This process detects the most suspect cancerous cells and removes them.

Currently, the ‘CAR-T’ cell is in use and this is unique to each patient.

However, CAR-T has clear limitations as it can only target some cancers. Furthermore, there is no evidence it can tackle solid tumours.

How the T-cell works

In contrast to CAR-T, scientists at Cardiff University believe the latest T-cells are far more receptive at hunting out dangerous cells.

The T cell receptor (TCR) can kill 'most human cancer types' and leave alone healthy cells.

In an interview with the Independent, Professor Andrew Sewell, lead author on the study from Cardiff University's School of Medicine, said 'previously, nobody believed this was possible.'

"We hope this new TCR may provide us with a different route to target and destroy a wide range of cancers in all individuals."

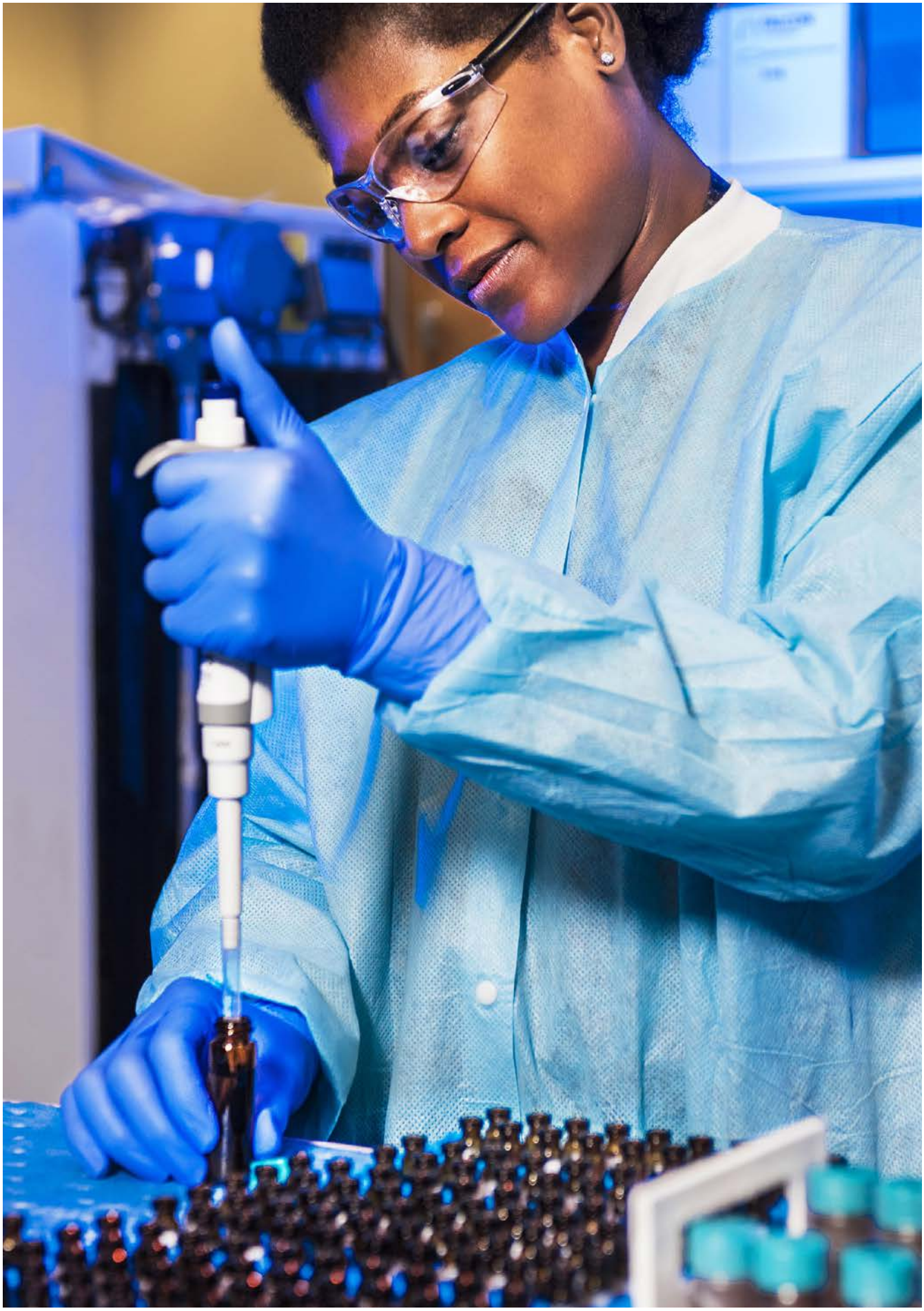
When can patients receive t-cell cancer treatment?

Despite the fact laboratory testing is yet to be tested on patients, Professor Sewell and his team believe their research has "enormous potential".

The research teams' next goal is to determine 'the precise molecular mechanism' that the new discovery distinguishes between healthy cells and cancer.

Amy concluded:

"Cancer is a distressing diagnosis, but to learn that it could have been diagnosed sooner and the outcome have been better, is simply heart-breaking. In some cases, it is literally a matter of life and death.
"Such a breakthrough has the potential to make a hugely positive impact on the treatment, curability and lifespan of cancer sufferers, particularly those that are diagnosed at an advanced stage.
"I always believed a true "cure" for cancer would never be found in my lifetime, and whilst there is clearly a very long way to go before it can be tested in patients, this discovery makes me more optimistic."



An independent investigation into Ian Paterson's callous surgeries

An independent investigation into Ian Paterson's callous surgeries

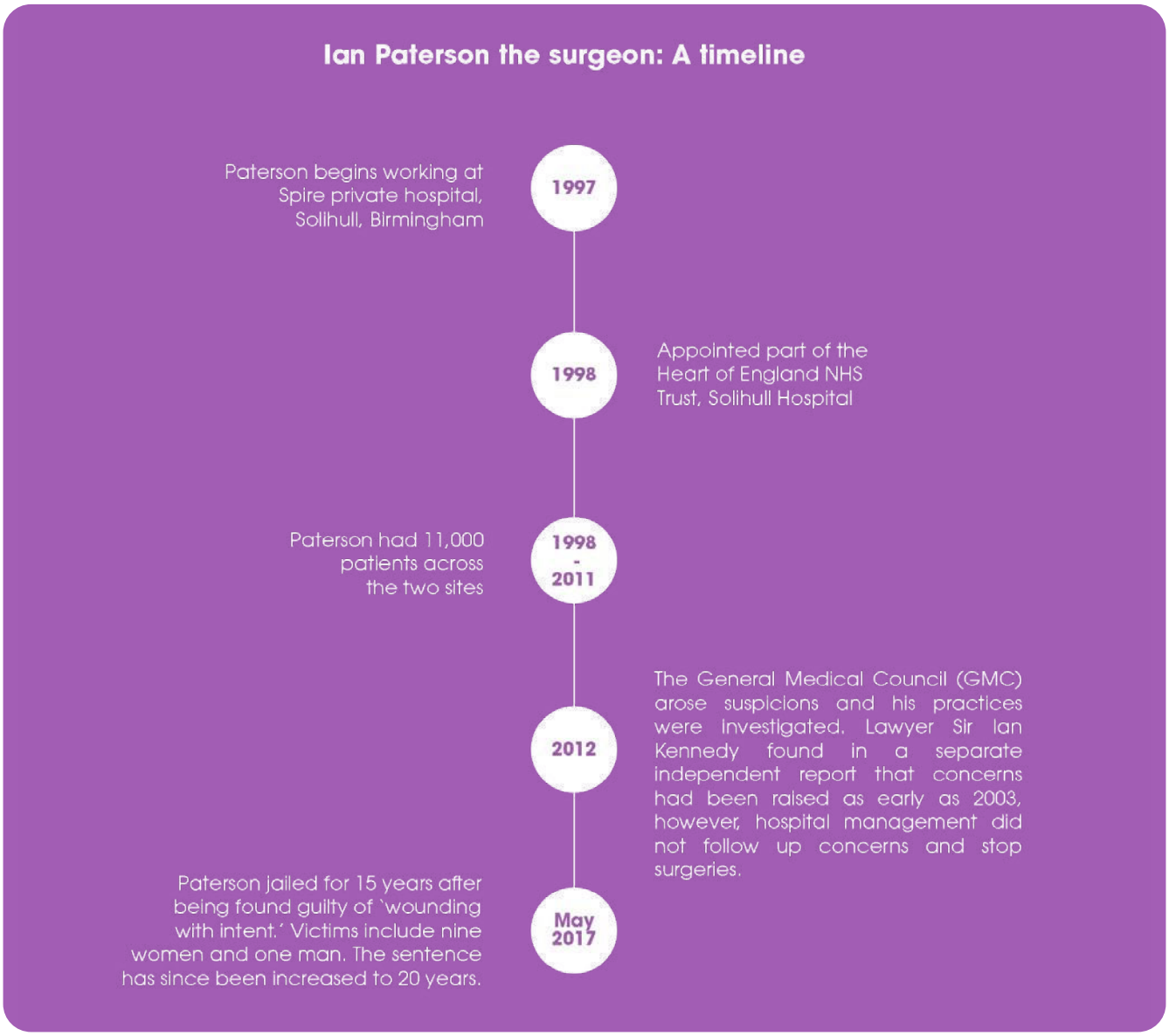
Back in February, we were rocked by an investigation into the death of 23 patients, surrounding the misconduct of surgeon Ian Paterson. Our Senior Litigation Executive, Michael Carson, said that the investigation should result in systemic changes, With 12 years of clinical negligence case experience under his belt, Michael was hopeful the report would bring greater transparency into the surgeon's practice

A damning report

Michael said:

"The report is damning and makes for shocking reading. Once more, it heavily criticises those in positions of responsibility who ought to have been alert to the horrifying actions of Ian Paterson much sooner.

"Serious concerns about Paterson's conduct were raised almost a decade before he was eventually suspended. Consequently, around 11,000 patients went to his clinics."



Preventing further needless and dangerous surgeries

Following the independent inquiry into Paterson's surgeries, as many as five additional colleagues have been referred to health watchdogs.

Furthermore, inquiry Chair, the retired Bishop of Norwich, Rt Revd Graham James, described Paterson's actions as 'callous' and 'wicked'.

In response, Spire Healthcare's Chief Executive, Justin Ash, has apologised publicly.

The health official has gone on record to highlight his sorrow for what he's called, "significant distress" for all patients involved, adding more should have been done to challenge "Paterson's criminal behaviour."

Surgical victim, Debbie Douglas spearheaded the campaign for an independent inquiry alongside fellow patient, Tracey Smith.

Speaking to the nation's media, she said:

"The fight goes on until the legislation has changed.

"We don't want somebody from the government giving us lip service and saying that lessons will be learned. It sickens me.

Patient Claim Line has a history of bringing negligent surgeries to justice, with a rich history in successfully representing claimants with cases of medical mistakes.

This is evident in the firm's own investigation into Southport and Ormskirk NHS Trust and the representation of a number of Ian Paterson's victims.

As a result, Michael hopes all current and future victims of medical negligence know that Patient Claim Line is a firm they can trust.

"The inquiry's recommendation to recall and assess 11,000 patients is an astonishing testimony to the extent of the damage done.

"Couple this with the investigation into all 23 deaths and it should rightly result in the systemic changes recommended by Bishop James.

"As a dedicated top 100 medical negligence and serious injury law firm, we will continue to fight for the justice so many individuals richly deserve."

Taxi driver could lose livelihood after negligent treatment

Case Study

Taxi driver could lose livelihood after negligent treatment

A Patient Claim Line Case Study

The Incident

Southend University Hospital NHS Foundation Trust were found to be negligent after the glaucoma diagnosis for a 71-year-old taxi driver was not treated and managed sufficiently, leaving him with marked visual loss in his eye.

The Case

Jennifer Argent, medical negligence solicitor for Patient Claim Line, took charge of the case. The claimant, who wishes to remain anonymous, was first diagnosed with glaucoma in January 2013 and it was then he was referred for investigations and treatment.

Investigations into the case uncovered that he was seen in the Ophthalmology department, where he was prescribed drops which he understood he would need to take for the rest of his life. Unfortunately this appointment was not followed up on and was not seen again until March 2017.
By this time, the claimant had suffered marked visual loss in his right eye.

The Aftermath

The claimant's occupation as a taxi driver meant that his career was severely affected by his deteriorating vision. He is currently having annual eye tests and he fears that his licence could be revoked should his vision worsen, which would not have been an issue had he been treated earlier.

The Outcome

The claimant received a £30,000 settlement to cover loss of earnings and to compensate for the damage caused. Jennifer Argent, solicitor at Patient Claim Line, said of the case: "The defendant accepted their failure to recall him for review but denied the extent of the damage caused. After some negotiation, we managed to obtain a settlement for him that reflected his permanent visual loss and the real prospect of him losing his employment much more prematurely than he intended."

The claimant remarked:

"Thank you for everything you have done to secure this payment, I am very grateful to you."

How accurate is a mental health diagnosis?

How accurate is a mental health diagnosis?

This year, we have been investigating the impact of misdiagnosis; whether that be related to cancer or mental health. Misdiagnosis is a devastating medical mistake, and we wanted to examine the effects of this on people suffering with mental health conditions.

Getting a diagnosis is often the first step in seeking recovery for mental illness, and patients often take the opinion of a medical professional for granted. However, there are sometimes other factors which can interfere, meaning a mental health misdiagnosis could be a lot more common than first anticipated.

Why are mental health disorders misdiagnosed?

Medical misdiagnosis forms the largest percentage of medical negligence claims according to NHS Resolution, with around 40% of claims relating to wrong, failed, or delayed diagnosis. This can be even more problematic for mental health cases.

This may be due to a number of reasons, including:

1. Difficulty getting a GP appointment

In October 2014, NHS England and the Department of Health set out a vision to improve access to mental health services by 2020. However, the process for receiving treatment could still take up to a maximum of 18 weeks before patients are seen, although in some cases they may be able to get treatment within six weeks.

2. Limitations of GP when dealing with mental illness

Mental health services are free with the NHS, but in some cases, a referral from the relevant GP is required before accessing them. They will first need to assess the patient's circumstances and provide appropriate advice or treatment, before referring them to a specialist mental health provider – which can be very timely.

3. Overlapping symptoms

Some illnesses can share similar traits to others, and without careful evaluation, they can be mistaken for something else. In addition to this, patients may have more than one condition which can present numerous physical and emotional symptoms.

4. Incorrect medical history

In order to have a good medical history, it can really help to have a seamless patient-doctor relationship. However, in the case of mental illness, patients may be referred to a specialist depending on the symptoms. The doctor must first carry out an assessment before transferring the patient, but if their diagnosis is incorrect, the specialist could end up with the wrong information.

The effects of misdiagnosing mental illnesses

If a person has a mental illness, their recovery may benefit from having a doctor identifying and treating it early. However, if the condition has been misdiagnosed or missed altogether, this could have a negative impact on both their mental health and physical wellbeing.

Mental health

When misdiagnosis occurs, the symptoms of the mental illness that person is dealing with cannot be effectively treated, meaning existing mental health problems may persist. Not only that, but if they have been given the incorrect medication, the symptoms could potentially get worse.

For example, if a patient presents with bipolar disorder, but are given antidepressants for treatment, they are at a heightened risk of mania, increasing mood swings, or more severe depressive episodes.

Physical wellbeing

Many people suffering from mental illness can be incredibly vulnerable. Therefore, it is crucial that they are placed in an environment to suit their needs with appropriate supervision for their condition.

If a patient is misdiagnosed, they may not be placed in an environment which is safe for them. Sadly, this can often lead to injury.

For example, a patient who has suicidal tendencies requires a high level of supervision and a more controlled environment to ensure that they aren't able to cause harm to themselves. If they are placed in a location with access to harmful tools, this could result in life-changing injuries which could have been avoided given the correct diagnosis and treatment.

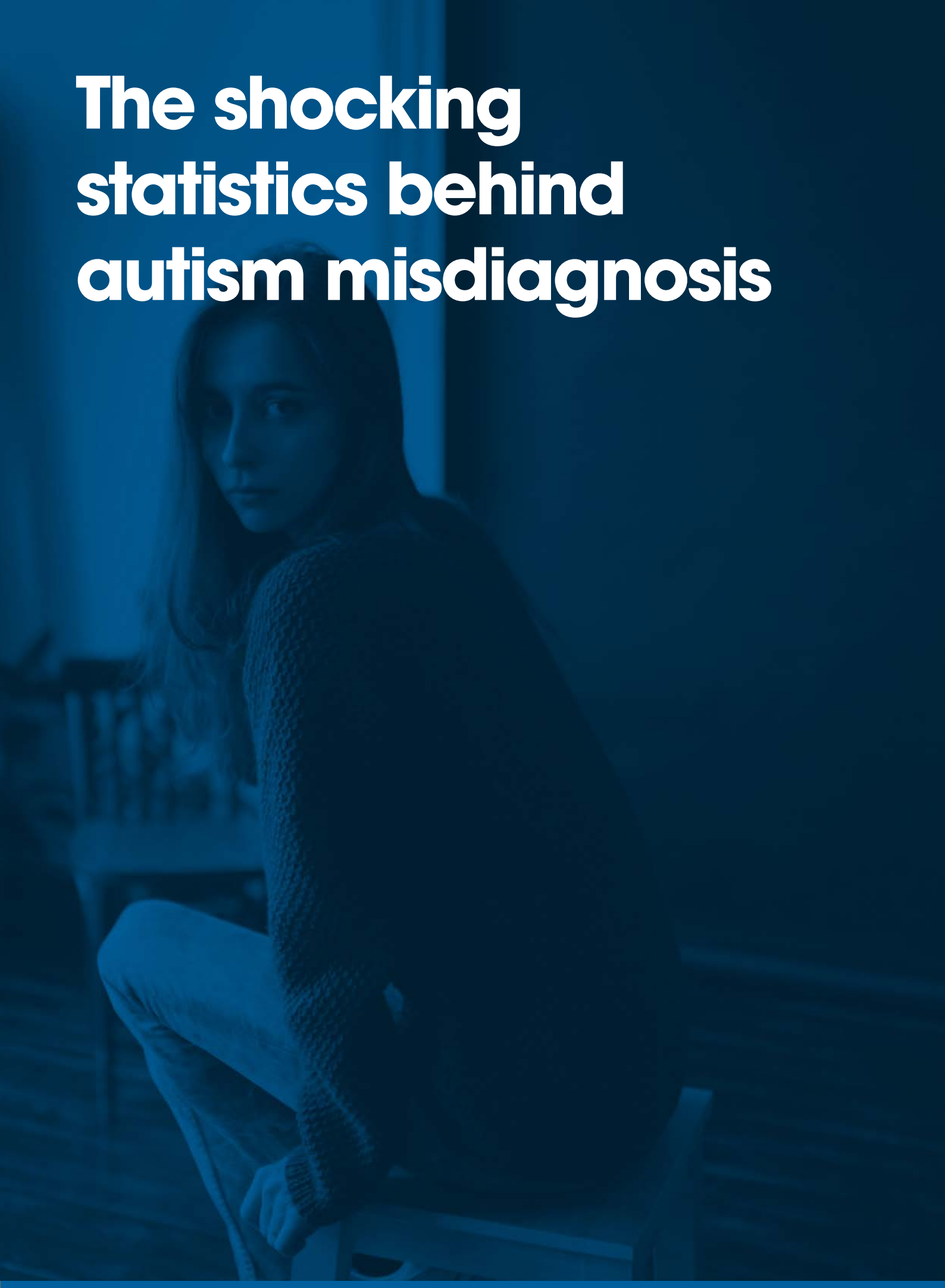
What patients should do if they believe they have been misdiagnosed

If a patient believes they have been misdiagnosed for a mental illness, it's important to first talk to a mental health professional about these concerns. From here, they can ask for a second opinion if they are unsure about the treatment or diagnosis suggested. If the GP refuses, they can contact their local Patient Advice and Liaison Service (PALS) for advice.

While providing a diagnosis can be difficult, a treating clinician has a duty to consider all reasonable causes of condition – taking the appropriate steps to confirm or discount any potential diagnosis. Ultimately, a patient believe this duty of care has not been followed, they could be entitled to make a claim.

While providing a diagnosis can be difficult, a treating clinician has a duty to consider all reasonable causes of the condition.

The shocking statistics behind autism misdiagnosis



The shocking statistics behind autism misdiagnosis

It is estimated that around 700,000 people in the UK are on the autism spectrum, which equates to about 1% of the population. Yet despite this figure, there is no national register or exact count on how many people actually have this condition. As such, the growing number of autism misdiagnosis cases is becoming a cause for concern

Why is autism misdiagnosed?

Autism Spectrum Disorder (ASD) can be very complex to understand, which can unfortunately result in high levels of autism misdiagnosis in adults. This is often the result of a widespread unfamiliarity with the symptoms, especially in cases where they were never evaluated during childhood. Though it's true that autism shares traits with other conditions, it can have costly implications if left unchecked.

Some symptoms of ASD which are often attributed to other conditions include:

- Difficulty with social interactions
- Difficulty with self-expression
- Eating disorders
- Displaying repetitive behaviours (such as a nervous tick, rocking back and forth, etc.)
- Inability to manage emotions
- Hypersensitivity
- Anxiety

Diagnosing autism can be challenging, as there is no recognised medical test to diagnose the condition. Instead, doctors tend to focus on behaviour – particularly in the case of children – and assess their development thereafter.

The impact of autism misdiagnosis

The landscape of autism diagnosis has shifted drastically in the last twenty years, with more and more cases being diagnosed with each passing year. According to the Centres for Disease Control and Prevention, the ratio of autism in children has risen from 1 in 150 in the year 2000 to around 1 in 59 in 2014.

However, many people believe that there is an issue with 'overdiagnosis' which may be inflating these figures. This raises a concern as some children are being diagnosed with the condition despite not sharing many autistic characteristics, meaning they could be treated for something they don't have – placing them in unnecessary situations, which can be stressful.

Impact on families

Families of those with autism often struggle with the emotional and physical impact of the condition, often leading to problems in their own lives. This can become even more of a burden when campaigning with professionals for diagnosis and services, which can come at significant financial costs.

> *Without a proper diagnosis, there could be an increased risk of depression, eating disorders, and self-harm.*

Impact on education

Children with autism require a degree of support in education. This will vary depending on the severity of their condition, while the average annual cost for support in a residential school is estimated at around £30,000. Children who get an autism diagnosis — even in its mildest form, can get allowances and special consideration academically.

However, if given a delayed diagnosis, these children will struggle to adapt as their needs will not have been addressed.

Why is the misdiagnosis of autism in females so common?

Until recently, it was thought that autism predominantly affected boys and men at a much higher rate compared to women – with many researchers pointing to genetic differences. However, new evidence suggests that the condition has been largely underestimated in females, with the most-up-to-date estimate putting the ratio at 3:1.

As a result of these early misconceptions, studies have often overlooked females to focus on males – leading to a gender bias in the research. Not only that, but doctors, teachers, and parents alike have primarily linked to the condition to males. Because of this, many women and girls have been overlooked or diagnosed late, while some have had their autism misdiagnosed completely.

Without a proper diagnosis, they could be at an increased risk of having mental health problems such as depression, eating disorders, and self-harm, which can ultimately have far greater implications.

£40K settlement following avoidable kidney loss

Case Study

£40K settlement following avoidable kidney loss

A Patient Claim Line Case Study

The Incident

Woman had right kidney removed after medical mistakes were made and surgeons failed to inform her of risks involved with a procedure they carried out at Barking, Havering and Redbridge University Hospital.

The Case

A 59 year old woman with a history of abdominal symptoms and surgery, was given an inappropriate exploratory laparotomy procedure by medics at Barking, Havering and Redbridge University Hospitals NHS Trust. It was claimed that there was a failure to provide the woman with all the available treatment options and that conservative management would have been appropriate. It is also claimed that it would have resolved her problems. Instead, during the surgery there was damage caused to her ureter and she had to undergo further surgical procedures. All of this resulted in the loss of her right kidney.

The woman contacted Patient Claim Line and medical negligence solicitor, Andrew Hesketh, pursued the claim on her behalf.

The Aftermath

As a result of the surgery, which could have been avoided, the woman lost her right kidney. She had a history of abdominal symptoms and surgery and had suffered with previous difficulties due to the presence of extensive adhesions. In the previous surgical procedure there was an explicit warning in her medical records advising against any further surgery and explaining that this would be very difficult. This wasn't explained to the woman and she wasn't made aware of this before the decision was taken to proceed to surgery.

> *"This is a case that once again emphasises the importance of patients being made fully aware of all treatment options available to them and the potential risks and benefits of each."*

This ended up being the key issue in the case as the surgeon who carried out the consent procedure and proceeded to surgery, did not make her aware of what it said in her notes. She was also not told about the extent of the damage to her uterer for months following the surgery. This has had a marked effect on how much she trusts the medical profession.

The woman had to have a nephrostomy (an artificial opening between the kidney and the skin) following the injury sustained in the surgery. She had to have this in place for three years and suffered with recurrent loin pain and infections. She then had to undergo a right nephrectomy –removal of the kidney.

The Outcome

The woman was awarded £40,000 which included damages for injuries and losses.

Andrew Hesketh, medical negligence solicitor at Patient Claim Line, said: "This is a case that once again emphasises the importance of patients being made fully aware of all treatment options available to them and the potential risks and benefits of each, so that they may make a fully informed decision as to what treatment they wish to have, rather than the medical profession continuing to take a paternal approach.

"The client in this case was very wary and sceptical about having surgery, and had she been made aware of the previous entries in her records warning against further surgery, would not have wanted to proceed – which our expert confirmed is a course of action that, ultimately, was likely to avoided her losing her right kidney, as was the case here."

Patient rights following dental negligence

Patient rights following dental negligence

Paying a visit to the dentist, whether for a routine check-up or for treatment, is important to maintain the condition of a person's teeth. Back in April, we investigated the realities of dental negligence and patient rights when it comes to pursuing compensation for negligent dental treatment. Ultimately, if a dentist fails to provide a reasonable standard of care that results in an injury, patients are within their rights to make a claim. Here we examine how to spot dental negligence and duty of care expected of all dental professionals.

How to spot dental negligence

Unfortunately, not all dental treatment goes to plan and this can result in a poor outcome despite the treatment being acceptable. It is only when injury arises because the treatment has fallen below the accepted standard that any reasonably competent dentist would provide, that patients may be able to pursue a claim.

In the UK, anyone who provides dental care must be listed on the General Dental Council register by law. As dental professionals, there are nine principles they must follow:

- Put patients' interests first
- Communicate effectively with patients
- Obtain valid consent
- Maintain and protect patients' information
- Have a clear and effective complaints procedure
- Work with colleagues in a way that is in the patients' best interests
- Maintain, develop and work within their professional knowledge and skills
- Raise concerns if patients are at risk
- Make sure their personal behaviour maintains confidence in them and the dental profession

These principles should be adhered to when you visit the dentist, otherwise dentists are at risk of failing to provide an acceptable standard of care.

Types of dental negligence claims

Some examples of dental negligence that we have dealt with to date:

- Cosmetic dentistry – Dentist removed excessive amounts of enamel when preparing a patient for veneers resulting in permanent damage
- Periodontal (gum) disease – Local dentist failed to treat developing periodontal disease resulting in widespread tooth loss
- Root canal treatment claims – These can be associated with several recognised complications however , we have pursued successful claims for failure to drill to an adequate depth; fill the root canal or cause multiple attempts due to poor technique
- Tooth extraction – During the course of a routine extraction the Claimant's jaw was fractured in several places due to excessive force being applied
- Oral cancer claims – We represented a client who suffered a delay in diagnosis of oral cancer because her dentist failed to recognise the early signs and symptoms

How to assess liability

When any claim is processed, the following principles must be taken into consideration:

- There was a Duty of Care – The dentist's legal duty to treat you safely
- There has been a Breach of Duty of Care – The dentist failed to provide reasonable care whether by action or inaction
- Causation – The action (or inaction) by the dentist that caused you an injury
- Damage – This is the harm or injury that you have suffered as a result of the dentist's actions

Patient rights to compensation

If the affected person can show they have been injured by substandard dental treatment, then they will be entitled to compensation.

The amount patients receive depends on the severity and complexity of the case, so when putting the claim together, it is important that the person making the claim has access to all the relevant information. This will help to keep the process moving and allows the solicitor working on the case to work more effectively.

The risks and complications of vaginal mesh

The risks and complications of vaginal mesh

This summer, a review fronted by Baroness Cumberlege cast a light on the injustices that have faced the many people affected by Primodos, Sodium Valproate and the use of mesh in gynaecological procedures. The review was significant for many women who have fallen victim to the complications of vaginal mesh; many of which have been forced to live with years of pain, discomfort and embarrassing conditions with little to no definitive help.

Our team took the opportunity to breakdown these complications and to raise awareness of the pitfalls associated with vaginal mesh, in the hope that women who might be affected can come forward and seek the appropriate help.

A difficult reality for many women

For many woman, dealing with incontinence or vaginal prolapse is a difficult reality. The NHS estimates that between 3 and 6 million people in the UK have some degree of urinary issue, and that 50% of women will develop a degree of pelvic organ prolapse (POP) in their lifetime.

Many women have turned to surgery in an attempt to solve the problem. Vaginal mesh implants were introduced as a means of treating these issues, but complications from the mesh or the operation have left many with a string of life-changing complications.

What is vaginal mesh?

The mesh used in urogynaecological and prolapse surgeries is generally a polypropylene "net-like" implant. It can be used to treat stress urinary incontinence (SUI) and pelvic organ prolapse (POP). There are different types, brands and manufacturers of these meshes. Common terms for mesh used to treat incontinence include "sling", "tape", "ribbon", "mesh", and "hammock". However, in general these are all terms to describe a transvaginal (TVT) or transobturator (TOT) tape.

A TVT/TOT is used to lift and support the urethra or bladder neck where this has dropped. Surgery is done through the abdomen or the vagina, with the mesh then implanted and held in place so that the tissue will eventually grow into the mesh to create a wall of support.

The mesh used in POP is a similar construction but is often used specifically to strengthen the muscle walls surrounding the vagina or nearby structures.

What is vaginal mesh used for?

The use of synthetic material for surgical correction of POP and SUI became increasingly popular after their introduction in 1998. Between 2007 and 2015 there were over 92,000 mesh procedures in the UK. This includes 11,500 treatments for POP and 80,500 urinary incontinence surgeries.

However, while mesh implants have been used successfully in the majority of cases, these flexible plastics have led to life-altering complications for many women.

In October 2018, the National Institute for Health and Care Excellence (NICE) issued new draft guidance on vaginal mesh surgery, recommending that women should opt for non-surgical treatments due to complications.

What complications might arise from surgery?

There is a lot of controversy surrounding this surgery, with around one in fifteen women in the UK requiring surgery to extract them.

Whilst there have always been known complications from mesh such as erosion, migration and pain, over time broader and more extensive complications have emerged.

These include:

- Severe and constant abdominal and vaginal pain
- Nerve damage
- Mesh shrinkage
- Vaginal bleeding or discharge
- Vaginal scarring and shrinkage
- Painful sexual intercourse (for men and women)
- Urinary infection or incontinence

These mesh implants are designed to be permanent, as they become embedded in the surrounding tissue to help provide better support. Removal can require hours of surgery and there's a risk of damaging nerves and nearby organs, potentially causing lasting damage and further pain in some instances.

In many cases, these risks were not discussed and inadequate warnings given to patients so that they could not make fully informed decisions when choosing to undergo mesh treatment.

How to spot a problem following surgery

For those who may be unsure what the symptoms of vaginal or pelvic mesh complications are, we've compiled a list of signs to look out for:

- You feel unwell or feverish, or you may have developed a high temperature
- Your surgical wound has become more painful/sensitive
- The skin around your wound is hot to touch or swollen
- The skin around your wound has become red
- Green or yellow discharge (pus) is visible
- Your wound develops an unpleasant smell

If a patient develops any of these symptoms and are concerned, they should contact their General Practitioner or attend a local walk-in centre for advice.

An interview with leading solicitor on the impact of vaginal mesh

An interview with leading solicitor on the impact of vaginal mesh

Christian Beadell is Head of Medical Negligence at Patient Claim Line. Christian co-ordinates the firm's vaginal mesh claims and is a specialist in gynaecology and urology claims, having worked on several high-profile cases including the George Rowland Litigation against the Liverpool Women's and Aintree Hospitals. In light of the vaginal mesh government review released in July, Christian has answered questions about vaginal mesh patients' legal rights and compensation entitlement.

Why was vaginal mesh used by surgeons instead of other options?

"Mesh was initially considered to be a suitable means of strengthening tissue after having been used for many years in hernia repairs. Historically, vaginal prolapse was treated surgically with a stitched repair, yet treatments began to introduce mesh as an alternative in order to provide a more long lasting and stable repair."

What kind of complications can arise from vaginal mesh procedures?

"Depending upon the nature of the treatment, complications can range from minor symptoms of pain and discomfort, to more extensive symptoms associated with mesh migration and erosion, which ultimately require further surgical intervention."

Have Patient Claim Line seen an increase in vaginal mesh claims over recent years?

"We have seen a steady increase in the number of claims relating to mesh related to complications as awareness of this issue has been more widely publicised. The inquiry into the use of mesh, chaired by Baroness Cumberledge, has helped to highlight a number of significant issues. Broader public understanding and media reporting has meant that fewer women have suffered in silence."

Christian Beadell
Head of Medical Negligence

"Depending upon the nature of the treatment, complications can range from minor symptoms of pain and discomfort, to more extensive symptoms associated with mesh migration and erosion, which ultimately require further surgical intervention."

How much could a patient be entitled to (estimation) for a vaginal mesh claim?

"Compensation for personal injuries resulting from vaginal mesh varies immensely between individuals. Your claim would be valued with the benefit of expert input to assess the nature of the condition and the likely future prognosis. We assess the impact on employment and whether any future care assistance or equipment is needed. Many cases settle for a sum in the range of £15,000 – 30,000; however some claims can easily exceed £100,000."

What can women do if they think they have experienced suffering and pain due to vaginal mesh procedures?

"You should contact your GP at first instance and arrange a referral to an experienced gynaecologist who can assess your condition. It may be necessary to carry out a surgical procedure to fully determine if the mesh is causing problems and at that point you should be advised on your options which may include having the mesh removed."

"In some cases the advice may be to do nothing due to the risks associated with surgical removal, in which case ongoing palliative care would be appropriate."

"If you want to consider the merits of a legal claim then you can contact Patient Claim Line at any stage and we will look at the circumstances of your case and advise if we can assist. If we recommend pursuing legal action, your case will then be referred to one of experienced teams, who will commence an investigation. We generally pursue such claims on a "no win, no fee" basis unless there is suitable alternative funding available to you, such as a legal expenses policy."

Leg amputation for pensioner after a series of errors

Case Study

Leg amputation for pensioner after a series of errors

A Patient Claim Line Case Study

The Incident

An 82-year-old man has received a settlement from Southport Hospital after his leg needed amputating after initially being referred to a clinic for foot ulcers. In 2010, the gentleman underwent a bilateral femoral arterectomy and a left femoral endarterectomy and angioplasty later that year – operations designed to clear blockages from the artery in the groin area.

The Case

In November 2015, he began suffering pain in his middle right toe and attended Southport's podiatry clinic. The toe became ulterated and he attended the practice twice in December of the same year to have it cleaned and dressed. The pain in the toe became progressively worse and later that month, the clinic advised that the toe had become necrotic (where the tissue had died) and that he would be referred to the high-risk foot clinic.

Attending the clinic for dressing appointments on a weekly basis, the ulcers and the pain at this time were clearly progressing.

In February 2016, the man attended the vascular clinic at Southport Hospital and was informed that he had gangrene. He was administered morphine and had the foot dressed twice a week. He was then referred to Royal Liverpool Hospital, where he received the devastating news that his leg could not be saved and he would have to undergo an above-the-knee amputation of his right leg.

Furthermore, the claimant was diabetic which is important when it comes to foot ulcers. Diabetics can lead to serious complications, as it did here, and can prevent the healing process.

The Aftermath

Following his leg amputation, the claimant now suffers from phantom limb pain, which affects his sleep and takes medication to ease this. He suffers from a lack of taste and smell and a speech impediment due to the possibility of a peri-operative stroke. He is also wheelchair bound after his amputation and requires daily assistance.

Prior to the amputation, the claimant led an active lifestyle, attending the gym up to five times a week. He is now housebound, relying on the help of family and friends to keep him socially active. He was used to enjoying three holidays a year, which is something he has been unable to do since the amputation.

The Outcome

The claimant provided instructions to Patient Claim Line as he believed that the alleged negligence at Southport Centre for Health and Wellbeing had been instrumental in the eventual need for leg amputation. Failure to diagnose the gangrenous toe caused it to spread further up the leg, which resulted in amputation – an operation that would not have been required with an earlier diagnosis. His settlement will now allow him to rebuild his life and develop a new routine.

Guidelines for claiming compensation for infections after surgery

Guidelines for claiming compensation for infections after surgery

A hospital owes a certain duty of care towards their patients to ensure that they are not exposed to unnecessary or avoidable infection risks. An infection that is the result of negligent treatment, could be due to many factors, but if the right precautions were not taken, patients do have a right to pursue a medical negligence claim. Here we take a look at when a post-surgery infection becomes negligent.

How do surgical infections develop from negligent care?

Whenever a foreign body is introduced surgically, there is potential for a surgical site infection (SSI) to occur. Most surgical wounds heal up normally without any complications. However, these cases can sometimes become infected, as germs and bacteria enter the area where the surgical incision was made. SSI infections can develop from 2 to 3 days after surgery until the wound is healed, though on occasion they can occur several months after the operation.

Most claims that we pursue relate to a failure to recognise and treat the early signs of infection or to take adequate steps to prevent an infection from developing in the first place.

Examples of negligent treatment that may result in post-operative infections:

- General failures in hygiene/infection control
- Failure to sterilise equipment
- Failure to isolate patients with serious infections that may spread
- Failure to identify and manage post-operative infection

SSIs are fairly common, with 1,183 cases detected in England alone in 2018/19 according to data taken from Public Health England. Those most at risk include people who smoke, people with diabetes, people who have pre-existing conditions – such as leukaemia, people having major operations – such as bowel surgery, and people having laparoscopic (keyhole) surgery.

How to tell if an infection develops post-surgery

The skin naturally protects the body from infection. However, when the right precautions have not been adhered to, you are at greater risk of infections after surgery. While many SSIs aren't severe, you should still take caution if you develop any symptoms after surgery, and contact a specialist solicitor if you believe negligent treatment has taken place.

Some common signs to look out for include:

- You feel generally unwell or have developed a temperature
- Your wound has become painful
- The skin around your wound is hot to touch and red in colour
- Drainage of green or yellow (pus) discharge
- Your wound develops an unpleasant smell

Types of post-operative infections

Infections which occur in hospitals are usually from bacteria. There are a few different types of SSIs, which are classified on how serious the infection is, with the most severe cases causing complications such as sepsis. Some of the most common types of infection are:

- Staph infection (MRSA) – if you have developed a staph infection after surgery, this is likely a result of the doctor or nurse failing to maintain appropriate levels of cleanliness. For instance, if the incision isn't cleaned, the wound dressing isn't changed, or the bedding hasn't been tended to. This also applies to the condition of the room, which needs to be regularly disinfected.

- Sepsis – some patients show more severe symptoms even during the recovery stage, including a high temperature and an increased heart rate. This suggests the infection has spread into the bloodstream and throughout the body, which – left untreated – can lead to sepsis. This can cause organs to shut down and can be fatal.

In some cases, infection can be extremely severe and whilst it is a common complication from many hospital procedures, if it is allowed to progress without treatment the consequences can be significant. For example, in newborn babies exposed to Group B Streptococcal bacteria during birth, they can go on to develop signs and symptoms of streptococcal meningitis which can be fatal or lead to brain damage. We have represented several families who have suffered terribly as a result of negligent treatment. Usually from the consequences of a failure by the hospital team to recognise early signs of infection in their child, or take steps to reduce or prevent the risk of infection developing in the late stages of the pregnancy.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