

## **Case Study – Chloe**

**(dedicated to the memory of Chloe 10.12.99 – 28.09.02)**

Kate and Chris know more than anyone how important it is to get independent advice and support when something goes badly wrong. They lost their daughter, Chloe, aged just 2 years 9 months, in September 2002 when, in spite of their best efforts to have her treated at their local A&E department (of a London teaching hospital), the doctors failed to diagnose meningitis or to arrange blood tests which would have led to treatment which could have saved her. They were sent away on the first visit, and even when they returned two days later there were terrible delays in investigation and treatment of Chloe's illness and, as a consequence, she died.

Fortunately for them, a family friend told Kate and Chris about AvMA, who were able to provide sympathetic and specialist medico-legal advice and support in having a complaint investigated. In fairness, the NHS Trust itself devoted significant resources to the investigation, which included a team of senior clinicians and managers, and resulted in a weighty report identifying a whole range of areas where the care should have been better. It came up with a range of recommendations for improving care of children presenting in A&E in the future. However, the trust flatly refused requests from Kate and Chris, and AvMA on their behalf, for an independent report to be commissioned and did not involve them in the investigation. To add insult to injury, their account of events were simply dismissed in favour of accounts from staff. In spite of a catalogue of errors and delays which could only have led a well-informed person to the conclusion that Chloe's death should have been avoided, the trust never once apologised for its failings having led to Chloe's death.

Kate and Chris were disgusted. In desperation to have the gravity of the trust's failures acknowledged they consulted AvMA again and it was agreed to take legal action. It had never been their intention to take legal action, and money or compensation had been the last thing on their minds.

AvMA referred Kate and Chris to one of the accredited specialist solicitors on its clinical negligence panel – Elizabeth Batten of Parlett Kent. A letter of claim was drawn up and submitted, but once again it was stressed that compensation was not the main objective and a meeting was suggested so that Kate and Chris could hear from the trust that it now appreciated the gravity of its failings. However, the negligence was immediately apparent to the trust's solicitors who promptly admitted liability and issued what is called a Part 36 offer. This is an offer of a sum of money in settlement of a claim. No account was taken of the trauma the family had suffered. Still there was no apology for Chloe's avoidable death. Kate and Chris were given 21 days to accept the offer or not. Take it or leave it. No offer of a meeting before the deadline was forthcoming.

Almost three years after Chloe's death, with the help of Kate and Chris's solicitor and AvMA, the trust were eventually persuaded to meet with the family – but only after the legal claim had been settled. AvMA suggested that a senior member of the trust's board should attend and it was agreed the medical director attend. Supported by AvMA, Kate and Chris gave a heart-rending account of their experience and how the way the trust had dealt with them had added to the crushing loss of their daughter. The realisation of how badly handled the whole affair had been was evident in the medical director's facial expression. At last Kate and Chris received an apology for their daughter's death and a feeling that, just maybe, the trust appreciated the gravity of its failings and would put them right. This was all they had ever wanted.

## Comment

Sadly, AvMA comes across similar attitudes in other NHS trusts. If this was the best that a London teaching hospital, with more resources than the average trust could do with addressing a case as tragic and clear cut as this, what chance would the average patient/family have of a fair investigation and result?

If the trust had had the benefit of an independent investigation/ independent medical expert opinion, their response might have been radically different.

The trust made the all too common mistake of failing to involve the family in the investigation of their own complaint / incident, and dismissing their version in favour of statements made by staff.

No other organisation is available to provide the kind of advice and support AvMA did.

Without the specialist medico-legal experience and expertise of first AvMA and then their solicitor, Kate and Chris acknowledge that even with their considerable determination and acumen, they would have got nowhere.

Before AvMA created its specialist panel of clinical negligence solicitors, the likelihood is that Kate and Chris would have turned to a generalist lawyer. AvMA's accredited specialists, like Elizabeth Batten, are chosen both for their expertise in clinical negligence and for their ability to provide clients with a caring, sensitive and efficient service.

The case illustrates the need for specialist independent help and advice if people are to have a reasonable chance of justice in the forthcoming NHS Redress Scheme.