

## **Case Study – Mr B**

### **(dedicated to the memory of Mr B)**

Mr B, an otherwise fit and strong gentleman of 71 years of age, underwent surgery for cancer of the oesophagus in 2002. The procedure involved the use of a nasogastric tube. It was apparent to the family after the operation that something had gone very wrong. Mr B became very seriously ill and, after suffering terribly, died five months later. The family asked the hospital for an investigation. When the hospital replied it explained that a hole had been made in Mr B's stomach when the nasogastric tube was replaced (against all guidelines) when it had come out. Although the Chief Executive expressed his and the staff's sincere condolences, there was no apology for the error itself which had brought about Mr B's death. There was no assurance given that steps would be taken to prevent similar errors in the future. There was no suggestion that Mr B's family should be entitled to compensation or should seek independent legal advice.

Mr B's family contacted AvMA, who assessed the case and concluded that referral to an accredited specialist solicitor on AvMA's clinical negligence panel was appropriate. A claim was lodged. The NHS Litigation Authority at first offered a sum of £15,000 in settlement of the claim. On the advice of their solicitor the family rejected this offer. With the help of their solicitor and the independent expert medical reports obtained, the claim was eventually settled for £129,000.

#### Comment

Without the input of a clinical negligence specialist legal adviser and the independent medical expert opinion obtained, the settlement by the NHS internal investigation and assessment would have been £15,000 (some £114,000 less than that which the family were actually entitled).

Without AvMA being able to advise and support Mr B's family, and without the services of a genuinely expert clinical negligence solicitor from AvMA's panel, a further injustice would have been done.