

NHS REDRESS SCHEME IMPROVED

Following intensive lobbying by AvMA with the support of like-minded patients' groups, important amendments have been agreed to the NHS Redress Bill, which is due to become an Act this autumn. AvMA believes that the revised statutory framework now provides the potential for a more credible NHS Redress Scheme than originally proposed, which could provide speedier access to justice for people affected by clinical negligence and at the same time help develop a more open and fair culture in the NHS and help ensure patient safety lessons are acted upon.

One of the most important changes is the introduction of the joint instruction of independent medical experts to report on the merits of cases and the availability of specialist legal advice to assist patients with this. Whilst the NHS will first of all have the opportunity to investigate cases and make an offer of redress (including compensation) itself, this new feature provides a means of introducing independence in the assessment and resolution of cases which remain in dispute. Originally, the Government had maintained that there would be no independence at all within the scheme and no legal advice to empower patients in the process. Amendments have also been introduced which guarantee patients a report on the investigation including an action plan on what is to be done to improve patient safety as a result of lessons learnt from the case. NHS organisations will also have to produce an annual report on lessons learnt and action taken as a result of all the cases it has dealt with.

Whilst the scheme is far from perfect, AvMA believes that thanks to the changes that have been agreed it now has the potential to work in the interests of injured patients and their families. Our work will now concentrate on trying to ensure the more detailed regulations make the scheme fair and credible. We also hope that when the scheme is reviewed there will be an opportunity to revisit some of our main arguments, such as using a fairer 'avoidability test' rather than the legalistic test of negligence used by the courts to determine eligibility for redress.

The Bill is in the Lords in October and will probably get Royal assent in November. For a full understanding of the implications, attend our conference 'From NHS Complaints to Redress' in London on 29th November. Contact AvMA's conference team on 020 8688 9555 for details.

KEY POINTS

(as amended in the Commons)

- The NHS Redress Scheme will be restricted to NHS hospital services. Primary Care such as GP services are not covered.
- It will be applied to cases where the NHS assesses the potential damages to be under £20,000.
- The Scheme is not independent but run by the NHS itself.
- However, there will now be an option of joint instruction of independent medical experts to report on the merits of cases, if the NHS has not already offered redress.
- Legal Advice will be paid for by the scheme for the patient to receive specialist legal advice if there is to be joint instruction of medical experts, and when an offer of redress is made.
- The option of talking civil legal action remains.
- The Scheme is not likely to be launched before 2008.

PUTTING THE 'PATIENT' IN PATIENT SAFETY

AvMA are working in partnership with the National Patient Safety Agency (NPSA) on an exciting new project which aims to support and develop the involvement of patients and the public in local patient safety work. The 'Patients for Patient Safety' project will develop a national network of individuals and groups who are or want to be involved in patient safety work (sometimes called 'clinical governance') and provide opportunities for mutual support and sharing good practice. A training module will be developed to give people the knowledge and confidence they need to engage with NHS staff on patient safety work. The project will also work with a small number of NHS trusts piloting ways of involving patients. If you are or would like to help your local NHS improve safety, or if you know of examples of good practice in involving patients in this kind of work, contact the project managers at AvMA - Louise Price or Josephine Ocloo on 020 8688 9555.

CALL FOR FAIR DEAL FOR OLDER PEOPLE

AvMA have convened a landmark conference - 'Ethical and Legal Issues in the care of Older People' to be held in London on 30th November. The event is supported by Help the Aged.

The care of older people presents an increasing range of ethical and legal issues for health professionals, policy-makers and the courts, not to mention older people themselves and their carers. These range from access to NHS care and treatment, to how and when people should be allowed to die. There is growing concern over perceived discrimination against older people in health and social care and the quality of care that is provided. Older people and their carers and advocates face a confusing regulatory landscape and barriers to access to justice.

The conference brings together some of the leading experts in older people's care and the medico-legal world. For full details contact the event team on 0845 303 3334.

SHAKE UP OF HEALTH PROFESSIONAL REGULATION

The long-awaited reports on the regulation of health professionals following the Shipman Inquiry have now been published and are available on the Department of Health website www.dh.gov.uk. The 'Donaldson' report deals with doctors and the GMC. The 'Foster' review deals with non-medical health professions and their regulators. Both reports are the subject of consultation closing in November 2006.

AvMA have given a cautious welcome to the reports. Some of the recommendations mirror what AvMA has been calling for. For example, the recommendation to move to a civil standard of proof in fitness to practise cases (on the balance of probability) rather than the criminal standard (beyond reasonable doubt). AvMA have argued that it is unreasonable for a health professional who is 'probably' a danger to the public to be allowed to practise freely. The call for more consistency across regulators is also welcome. However many of the recommendations need further explanation and analysis. Little is done to clarify how revalidation should be taken forward.

AvMA is particularly disappointed that the calls that it and other patients' groups had made for initiatives to support patients in bringing cases to regulators have not yet been answered. There is currently no funding provided for independent advice and support, resulting in many would-be reporters of unfit health professions being deterred from doing so. Also, the lack of dedicated advice in this area leads to inappropriate or unnecessary reports being made to regulators such as the GMC, wasting resources and frustrating the patient. We are calling for funding to be made available for independent bodies, including AvMA, to provide specialist advice and support. There is still time to influence this. If possible, write to Sir Liam Donaldson by 7th November or as soon as possible after that.

SPECIALIST PANEL OF SOLICITORS RE-LAUNCHED

AvMA has renewed and updated the way it assesses and accredits solicitors who are specialists in clinical negligence. A new quality mark has been launched for AvMA accredited specialists to make it easier for members of the public to identify them (see below).



Solicitors seeking accreditation are carefully vetted for the appropriate knowledge and expertise and also their customer care. They have to sign up to AvMA's code of practice and apply for re-accreditation every five years.

It is vitally important that people needing legal advice on potential clinical negligence and other medico-legal issues use a genuine specialist, and the AvMA quality mark is the best available indication of this. There have been concerns about clients being lured by claims farmers and 'personal injury' lawyers without the necessary expertise. AvMA has seen or heard of many examples of where this has had disastrous results.

PATIENT INVOLVEMENT UPHEAVAL AGAIN

Less than three years after the abolition of Community Health Councils, Patient and Public Involvement in the NHS is facing another upheaval. Patient and Public Involvement Forums are to be scrapped before they have even been able to get going properly. The national Commission for Patient and Public Involvement in Health is also to go, and a new type of local body - 'LINKS' - is to be set up. Independent Complaints Advocacy Services (ICAS) are seemingly being left in limbo, being provided by three different charities unconnected to the patient and public involvement organisations and directly funded and overseen by the Department of Health rather than an independent body, as had been promised. The new plans are outlined in the publication "A Stronger Local Voice" from the Department of Health. No timetable has been presented for the changes which will require legislation.

POST-SCRIPT: As we go to Press we have heard that PALS - one if not 'the' key element in the Government's patient and public involvement provisions have been denied funding for their national association/office. PALS are campaigning for reconsideration of this.

AvMA HELPLINE EXPANDED - VOLUNTEERS WANTED!

Thanks to a grant from the Big Lottery Fund, AvMA is improving access to its helpline for people affected by medical accidents. The helpline has been in great demand, sometimes meaning callers have difficulty in getting through. AvMA has launched a recruitment campaign for volunteers to help by taking calls on the helpline and offering initial support and advice. If necessary, volunteers will be able to refer callers on to one of AvMA's professional caseworkers. Volunteers are given training in helpline skills, complaints procedures, and the law relating to clinical negligence before they start and are supervised and supported. AvMA wants to recruit volunteers from as wide a spectrum as possible including people who have themselves been affected by medical accidents. We are also taking placements/secondments from other organisations. If you are interested in supporting people affected by medical accidents and learning more about the complaints and legal processes contact Gillian Savage at AvMA. Tel: 020 8688 9555.

AvMA ON THE EUROPEAN STAGE

AvMA are taking part in a European Commission funded project 'SIMPATIE' - 'safety improvement for patients in Europe'. AvMA is ensuring that there is a patient/consumer perspective built into the project's work and conclusions. Peter Walsh, AvMA's Chief Executive, addressed the patient safety conference hosted by the European Commission in Luxembourg in September. The project is due to report in February 2007 on actions that can be taken at a European and national level to improve patient safety.

DATES FOR YOUR DIARY

31st October, "Death, Dying and Damages - the medico-legal and ethical issues", London

29th November, "from NHS Complaints to Redress", London

Essential update on NHS Complaints reform, good practice, and the very latest on NHS Redress Scheme proposals following passage of the NHS Redress Act.

For details/to book, tel: 020 8688 9555

30th November, "Ethical and Legal Issues in the Care of Older People", London

Covering ethical/legal dilemmas in older people's care; patient safety; access to care and age discrimination.

For details/to book, tel: 0845 303 3334

Action against Medical Accidents, 44 High Street, Croydon, Surrey CR0 1BY.

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