

## ACT NOW TO HELP IMPROVE THE NHS REDRESS SCHEME!

The NHS Redress Bill has been introduced in Parliament. The Bill would establish an 'NHS Redress Scheme' as an alternative to litigation through the courts for smaller clinical negligence cases. It follows the consultation document 'Making Amends' (2003).

Whilst fully supporting the stated aims of the NHS Redress Bill, AvMA and other commentators have raised serious concerns about the way it is currently drafted. A campaign has been mounted to improve the proposals before they become law. The main concerns are:

- as currently drafted, the NHS Redress Scheme would rely on the NHS investigating itself and deciding upon eligibility for redress/compensation without any independent input to the process. The NHS Litigation Authority would decide on the merits of cases.
- legal advice would be restricted to those who receive an offer from the NHS Redress Scheme, with no specialist medico-legal advice to empower the patient in the process itself and actually influence the outcome.
- there is no robust mechanism put in place to ensure that the NHS learns from its mistakes and improves patient safety as a result.

AvMA's detailed briefing on the Bill is available from the website, where there is also a discussion forum for you to add your views. See [www.avma.org.uk](http://www.avma.org.uk)

As you will see, a wide range of organisations share AvMA's concerns. Almost every response to 'Making Amends' stressed the need for independence and specialist advice.

AvMA have campaigned for years for an initiative like an NHS Redress Scheme to offer speedier, less painful access to the truth; compensation; and assurances that lessons will be learnt. It would be a massive lost opportunity if the scheme were to be set up in the way set out in the Bill. It is hard to see how the public could have confidence in a scheme which makes the NHS investigation judge and jury over itself. It could do more harm than good.

### Help our campaign! Here's how:

- write to Jane Kennedy, the Health Minister, to your MP and to anyone you know in the House of Lords. Encourage them to support proposed amendments to the Bill introducing independence, specialist medico-legal advice and measures to improve safety. Mention AvMA's briefing.
- write to newspapers and phone in to radio or TV programmes that cover the Bill
- encourage friends and colleagues to do the same.

AvMA is seeking further discussion with Ministers to explain our concerns and offer constructive alternatives which are described below. We are also briefing politicians of all parties and hoping that suitable amendments will be made to the Bill.

## What are the alternatives?

AvMA has suggested that the Bill could be amended to address the lack of independence, specialist advice and measures to improve safety. For example:

- The responsibility for investigating and judging the merits of cases could be given to the Healthcare Commission, which is independent of the NHS, instead of the NHS Litigation Authority. This would have the added advantage of the Healthcare Commission being able to recommend patient safety improvements and monitor that they are implemented.
- Specialist medico-legal advice for patients/families in the scheme could be commissioned from solicitors or specialist agencies such as AvMA.
- Alternatively, the scheme could draw on the experience of the 'Resolve' fast track resolution pilot in England, or the 'Speedy Resolution Scheme' in Wales. In these, the merit of the case is decided by an independent medical expert. The medical expert could also report on patient safety issues and NHS trusts be required to respond with an action plan. The client is represented by specialist solicitors, who are only paid by the scheme if the case is 'successful'.

To keep up to date with developments visit [www.avma.org.uk](http://www.avma.org.uk).

## ACT NOW!

The Bill is due to be debated again in early December in the Lords and may get to the Commons for approval before the end of the year. At the latest we are likely to see the Act early in the new year.

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