

Welcome to AvMA's Autumn edition of Network News - one of the ways in which we endeavour to keep you informed of AvMA's work and current issues concerning patient safety and justice for people affected by medical accidents.

Concern over Legal Aid Proposals

AvMA has raised serious concerns in its response to the Legal Services Commission consultation on proposals to reform civil legal aid. The document "A new focus for civil legal aid" is available from their website www.legalservices.gov.uk. AvMA is encouraging all patients/consumer groups to respond to the document, and believes some of the proposals would have a detrimental effect on patients' rights, if they have been harmed by medical treatment. The official deadline was 15th October, but it is still worth writing after then.

AvMA's concerns include:

- Further restriction on eligibility criteria for legal aid, which already is only available to a minority of the population.
- Forcing those claimants who are eligible to move to private 'no-win no-fee' arrangements (CFAs) after an initial investigation.
- Forcing people to go through the current complaints procedure (which can be shut down if you declare an intention to seek compensation) before considering application for legal aid.

AvMA has pointed out that to further restrict access to justice for people seeking compensation for clinical negligence is ironic, given the particularly low rate of claims in this area, which is still reducing (see below). AvMA's full response is available from their website: www.avma.org.uk. For further information, tel: 020 8688 9555.

Clinical Negligence Claims decline

Figures just released by the NHS LA show that the number of clinical negligence claims received in England in 2003-2004 dropped by 20% on the previous year to a total of 6,251. The total expenditure (damages and costs) on clinical negligence in England dropped by 5% to £422.5 million. Other interesting statistics from the NHS LA: since its inception in 1995, 35% of clinical negligence claims were abandoned by the claimant; 43% settled out of court; 1.5% settled in court in favour of the claimant; 0.5% settled in court in favour of the NHS, and 20% remain outstanding. See www.nhsla.nhs.uk

Scotland Campaign

AvMA is mounting a campaign to improve access to justice for medical negligence victims in Scotland. Legal aid is even harder to come by in Scotland than the rest of the UK. Solicitors

are not able to claim back all their costs if they enter into conditional fees or 'no-win no-fee' agreements, or obtain costs for suitable medical expert opinions. This all results in only a tiny fraction of the proportion of medical negligence claims being made in comparison with England and Wales

AvMA Chief Executive, Peter Walsh, addressed a medical negligence conference organized by the Law Society of Scotland on 6th September in Edinburgh, and AvMA is bringing together various stakeholders to address the situation in Scotland. It is hoped to secure funding also to provide AvMA with a permanent physical presence in Scotland.

The local Scottish Health Councils are to be abolished with effect from 31st March 2005 and to be replaced by a central Scottish Health Council, with the complaints support function to be commissioned by Health Boards. At least initially, this will be provided through Scottish Citizens Advice Bureaux. AvMA are discussing with Citizens Advice Scotland and the Scottish Executive how it can help support the new system.

Fast-track Small Claims Scheme for Wales...and England?

The Welsh Assembly has agreed to pilot a fast track small claims scheme for smaller medical negligence claims against the NHS. Claimants will have the option of claiming through this route, where their claim will be decided upon by an independent medical expert. The scheme is expected to start before the end of the year and details will be announced shortly.

- The cost of clinical negligence claims against the NHS in Wales for 2002-2003 dropped by £6 million from the previous year to £43 million. (NAO Wales 'Finances of NHS Wales 2004').

The NHS Litigation has also signalled its intention to launch its own small claims scheme for England, whether or not the NHS Redress Scheme goes ahead. Details should be announced shortly.

New Complaints Procedure 'Kicks in' in England

The NHS Complaints Procedure for England changed on 30th July. The most significant change is the responsibility for considering requests and handling independent review of NHS complaints once attempts at local resolution have been concluded has transferred to the Healthcare Commission (formerly known as the Commission for Health Audit and Inspection - CHAI). AvMA, with others, have welcomed this change which introduces much more independence. Complaints referred to the Healthcare Commission will now be screened and, if necessary, investigated by specialist staff employed for that purpose. Another welcome change is that complainants will be able to take their complaint direct to the Healthcare Commission if an NHS body drags out local resolution for six months or more.

However, there are some disappointing surprises in the regulations covering the new procedure. In particular, Foundation Trusts are not to be treated like any other NHS body. They will not even be required to operate the same complaints procedure. (The Department of Health had given assurances previously that Foundation Trusts would be dealt with like any other NHS body). Most complainants will still be able to take complaints about Foundation Trusts to the Healthcare Commission, but we await official guidance about how the system will operate in practice. Patients will also still be prevented from having their complaints investigated and

to claim compensation at the same time. It had been intended to remove this restriction on patients' rights, but this and some other reforms have been put on ice at least until after the Shipman Inquiry has reported.

For details about the Healthcare Commission's role in complaints, Tel: 0845 601 3012 or visit their website: www.healthcarecommission.org.uk

New Patient Involvement System to be scrapped before it gets going

It has been announced that the government intend to abolish the Commission for Patient and Public Involvement in Health (CPPIH). This is the body that was set up to replace Community Health Councils (CHCs) and their national body and to support the new patients' forums in England. The CPPIH only got going in 2003 and was one of the major concessions the Government had to agree to in order to get the controversial abolition of CHCs through parliament. Others included the provision of Independent Complaints Advocacy Services and more power and independence for patients' forums. We understand that just as with the decision to abolish CHC's, there is to be no consultation with the public or patients about the decision to abolish CPPIH. AvMA remains convinced of the need for an independent national body to support patients forums and represent views nationally.

There are also concerns about the arrangements for ICAS (independent complaints advocacy services). The Department of Health has contracts with four providers as a temporary measure until the patients forums for PCTs are able to undertake their responsibility to provide ICAS, with standards set and monitored by CPPIH. It is not clear what will happen with ICAS in the new arrangements, whether the DoH will continue as the commissioner (difficult if ICAS is to be seen as independent) or whether PCT patients forums will ever be enabled to take on their role, which was one of the key concessions which parliament insisted upon if CHCs were to be abolished. AvMA is pleased to remain closely involved in supporting one of the providers, South East Advocacy Projects. However, AvMA is no longer being funded to support the others with clinical complaints. This raises serious concerns about the suitability of arrangements in some parts of the country. In the East Midlands, clients who would have benefited from AvMA's specialist support as part of ICAS previously, were being directed straight to the personal injury claims line of a firm of local solicitors.

AvMA pioneers new empowerment training

On Saturday 29th May 2004 a national event 'From Pain to Gain' took place at Global Co-operation House in North London. This event was organised to provide opportunities for people affected by medical harm, to explore new ways of thinking and being in order to overcome pain, anger and loss. The ultimate aim was to enable people to find positive ways of regaining control, developing coping strategies and moving forward in ways of their own choice. This event was deeply moving and included a whole range of sessions on anger management, creating a positive mind and an inspiring talk on inner peace as a means of creating inner power.

One of the main highlights of the day for many of those attending was a panel discussion entitled 'From Victim to Victor' where three panel members shared their moving stories and described the strategies they have used to enable them to cope more effectively with the impact of medical harm. Because the feedback from this event was so encouraging particularly the

overwhelming call for more in-depth sessions of a similar nature, we are now planning a further event in Bristol on November 22nd entitled: Taking Control and Moving Forward - the positive impact of self management.

The Pain to Gain event on the 29th May has also acted as a catalyst for exploring the development of a more in-depth self management training programme for those affected by medical harm. This project is a collaboration between AvMA, represented by Louise Price, Josephine Ocloo, who is undertaking a PhD in Medical Harm in the NHS, John McConnel, Stress Management Trainer and Anne Radford, Consultant and Publisher. This development is based on the recognition of how little emotional support there is for individuals who find themselves in this position and the tremendous difficulties involved in people rebuilding their lives.

AvMA makes its case at The Labour Party Conference

AvMA sought to influence Labour politicians at this year's Labour Party Conference in Brighton, over the two issues closest to its heart - patient safety and access to justice for people affected by medical accidents.

On Monday 27th September 5 pm at the Charter Hotel, Peter Walsh shared the platform with Lord Hunt on the subject of patient safety. 'Safe in their hands' is a fringe meeting organised by the Socialist Health Association. You do not need a security pass to get in.

On Tuesday 28th September at 12.30pm in the Albert Room, The Grand Hotel, AvMA hosted a joint fringe meeting with the Medical Protection Society with special guest speaker being Rosie Winterton MP, Minister of State, Department of Health. Ms Winterton said the Government still wanted to develop plans for an NHS Redress Scheme. The most likely scenario is a white paper early next year and legislation after the election.

MRSA Campaign gains pace

The MRSA Support Group is spearheading a national campaign to reduce the number of MRSA and other hospital acquired infections, including a lobby of parliament on 20th October. AvMA supports the campaign. Hospital acquired infections are estimated to cost the lives of at least 5,000 people annually, and are probably the single biggest risk facing patients today. These figures are not included in other official estimates of adverse events or medical errors. Up to now there has been complacency about infections and hygiene. Examples of good practice here and abroad show that where there is a will, the rate of infection can be significantly reduced. It is notoriously difficult to get compensation when one has been affected by infections, even when it can be shown that the health provider has been negligently poor in hygiene and infection control. AvMA and the MRSA Support Group have suggested a special compensation scheme for people seriously affected in this way. For details of the MRSA support group, see www.mrsasupport.co.uk

Birth Trauma Association launch

The Birth Trauma Association was launched on the 25th of August at the Jury Room in Salisbury Guildhall. Debbie Sayers, one of the co-founders said "The Association has been set up to provide support for women traumatised by childbirth and to work with health professionals to raise awareness and identify those practices which contribute to trauma". Attendees included

leading researchers on Post Natal Post Traumatic Stress disorder, representatives from the Royal College of Obstetricians and Gynaecologists, maternity services consumer groups and women who themselves had experienced childbirth trauma. Dr Susan Ayers, one of the country's leading researchers in Post Natal PTSD was the keynote speaker. The meeting was chaired by Judy Crompton a well known midwife and counsellor who has written extensively on this subject.

See [ww. Birthtraumaassociation.org.uk](http://www.Birthtraumaassociation.org.uk)

We would be very interested to receive articles on other support groups for publication in the Network and any other items that would be of interest for inclusion in this newsletter.

Could you be a Trustee of AvMA?

AvMA is looking to recruit new trustees with an interest in patient safety and justice for people affected by medical accidents. Due to under representation on the current board of trustees we would particularly welcome involvement from people from ethnic minority backgrounds, disabled people, and younger people. Whatever your background, if you want to be part of setting policy and priorities for a successful, vibrant charity and really help make a difference in this area, contact us for an information pack.

Fundraising update

We are pleased to announce that the London marathon run by David Kerry of Attwater Liell Solicitors in Harlow raised a staggering £3,653 for AvMA. Well done and thank you to David and all those who sponsored him.

Evill & Coleman Solicitors, Putney, South London, held a charity golf day on 24th September, the proceeds of which will be donated to AvMA. So far, this has raised a fantastic £1,675!

Charitable fundraising is vital in helping AvMA develop a range of support for people affected by medical accidents, including the mutual support network; contacts register and the 'Taking Control' empowerment courses described above. For information and advice on how to organize any kind of fundraising event for AvMA, large or small, contact Margaret Morley on 020 8688 9555.

Action against Medical Accidents, 44 High Street, Croydon, Surrey CRO 1YB.

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