

CURRENT ELIGIBILITY CRITERIA FOR MEMBERSHIP OF THE AvMA REFERRAL PANEL

This is an extract from the AvMA Referral Panel Application Booklet. A complete copy is available on request or from our website: www.avma.org.uk

2. Eligibility and Criteria for Selection onto the AvMA Referral Panel

2.1 Eligibility

Those eligible to apply for membership of the AvMA Referral Panel will:

- be solicitors holding a current practising certificate and/or
- current Fellows of the Institute of Legal Executives who have passed the Institute's Civil Litigation and Tort papers.
- have a minimum of three years post qualification experience (PQE) in a firm specialising in clinical negligence on behalf of claimants. The applicant must demonstrate that s/he has had conduct of their own clinical negligence caseload throughout this period.
- Applicants cannot be considered within 6 months of any move to a new firm.

2.2 Criteria for selection

In line with AvMA's overriding criteria that the panel member must be capable of serving the victim of a medical accident and given the special skills and expertise that clinical negligence entails, AvMA is looking for specialist clinical negligence lawyers who can demonstrate a commitment to claimant clinical negligence work. They will have acquired the necessary skills, experience and knowledge to be able to provide AvMA's referred clients with the level of expert service expected of AvMA panel membership including a knowledge of the wider issues relating to medical accidents and healthcare policy.

Although membership of the AvMA panel is a gateway to a firm's qualification for a clinical negligence franchise, AvMA's overriding criterion for membership, as a charity for victims of medical accidents, is that the applicant should be able properly to serve such victims. Membership of the panel should therefore not be perceived simply as a gateway to a clinical negligence franchise and applicants will only be accepted who demonstrate they are prepared to work with AvMA and contribute to its aims and objectives.

Applicants must have the following attributes:

2.3 Experience

- (i) Minimum caseload during each of the previous three years of 30 active clinical negligence cases (subject to the firm's policy on caseloads and excluding multiparty actions), this representing a minimum of 60% of the applicants total caseload.

- (ii) Applicants who have represented both defendants and claimants will need to demonstrate a minimum of 18 months as a claimant clinical negligence practitioner in the immediate period prior to the application. During this period they should have been acting exclusively on behalf of claimants and be able to submit the requisite case reports.
- (iii) Be able to demonstrate to the Committee's satisfaction a substantial track record and commitment as a claimant clinical negligence practitioner both in terms of the quality and quantity of clinical negligence work undertaken including maximum severity claims, the range of cases investigated and quantum obtained.
- (iv) Be able to demonstrate to the Committee's satisfaction the applicant's ability to manage his or her caseload both in terms of volume of cases and case mix.
- (v) To demonstrate a high quality of case management and to conduct cases expeditiously in line with current standards and with the client's best interests in mind at all times.
- (vi) An innovative and creative approach in the tactics used in the conduct and resolution of cases and consideration of alternative methods of resolution including mediation.
- (vii) A good understanding of medical and legal issues enabling the applicant to identify at the earliest stage, cases which do not have merit and to advise appropriately on them whilst also ensuring that clients with meritorious cases are not denied access to their rights.

2.4 Knowledge

- (i) Be able to demonstrate a thorough knowledge of the relevant law.
- (ii) Be able to demonstrate a thorough knowledge of procedure and its appropriate application.
- (iii) Knowledge and ability to achieve appropriate settlements on behalf of clients.
- (iv) Confidence in the critical analysis of medical issues including the ability to read medical records critically, and analyse and constructively critique complex medical reports. AvMA considers this an essential attribute of a lawyer undertaking clinical negligence work. The applicant must be able to demonstrate that they are able to put this knowledge into practice in their conduct of claims and their ability to have effective dialogue with experts and counsel.
- (v) Applicants must have an understanding of funding issues, the operation of CFA's and an appreciation of and systematic approach to risk assessment.
- (vi) Knowledge and ability to advise as appropriate on complaints procedures including knowledge of hospital complaints procedures, GP complaints, complaints to professional bodies including GMC procedures, the Health Service Commissioner, private healthcare complaints and where clients can obtain specialist advice and support.

- (vii) An understanding of the ethical issues in relation to both clients and other parties such as experts.

2.5 Experts and Counsel

- (i) That they use only appropriate experts and that they update their experts database at regular intervals.
- (ii) That their use of Counsel is appropriate and that only experienced Counsel in this field are instructed.

2.6 Case reports

- (i) In support of the above, applicants must submit documentary evidence of at least 7 completed cases which have been conducted by the applicant personally throughout in a claimant lawyer capacity. All these cases should have reached a final conclusion within the previous 18 months.
- (ii) The submitted case reports should include 5 cases which have settled for compensation including:
 - a. Two cases settled for damages in excess of £100,000
 - b. At least one case that has been to trial or been prepared for trial
- (iii) Two cases which have been discontinued either after obtaining medical reports or at any stage thereafter. The applicant must submit copies of the relevant medical reports and counsel's opinion if obtained.
- (iv) Case reports are an essential part of the application process and may be grounds for rejection of an application if AvMA is not satisfied that the case examples demonstrate an adequate level of expertise and experience.

2.7 Client Care

- (i) That they recognise the needs of this group of clients and have a full client care package tailored to those specific needs.
- (ii) A thorough understanding of and an empathy with victims of medical accidents and their families. This quality is only often appreciable on direct contact and for this reason AvMA reserves the right to delay deciding on an application until such time as they are satisfied that they have had sufficient contact with the solicitor to be able to gauge this.

2.8 Training, Resources and Support

- (i) Evidence of attendance at relevant training courses in previous two years including courses with a predominantly clinical content. AvMA would expect a minimum of 10 hours per annum of training relevant to clinical negligence.
- (ii) That the applicant has appropriate support mechanisms within their firm such as other solicitors undertaking this work, sources of advice to which they can refer, including membership of the AvMA Lawyers Resource Service, the support of the partnership etc. If the applicant is

the only practitioner conducting clinical negligence within their firm, they must be able to demonstrate that they have compensated for this by establishing external networks of support, advice and experience and through committing themselves to updating their clinical and legal knowledge regularly.

- (iii) Have appropriate resources to assist them in investigating and dealing with the medical and legal issues including ready access to clinical texts, medical advice etc. It is not acceptable for applicants to indicate that such resources will be put in place after attaining panel membership because such resources should already be in place to enable them to effectively investigate and conduct their existing cases.

2.9 Franchise Requirements

- (i) That they have systems sufficient to satisfy any franchising requirements of the Legal Services Commission.
- (ii) If the applicant is not currently within a firm with a clinical negligence franchise, they will be expected to achieve franchise status within a reasonable period following confirmation that their application is of panel standard before full panel membership can be granted. Continued panel membership is conditional on being awarded a clinical negligence franchise.

2.10 Working with AvMA

Because the AvMA panel is a referral panel, the applicant must be able to demonstrate both a willingness and a commitment to developing a good working relationship with AvMA in the best interests of referred clients as well as the interests of AvMA as an organisation representing medical accident victims'. This would include, for example, an involvement in AvMA activities, Lawyers Support Group meetings (LSG's), supporting AvMA's work etc