

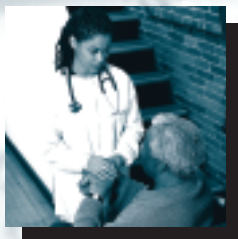
avma

action *against* medical accidents

Annual Review 2004 - 05

Including AvMA's

**Prescription for Patient
Safety and Justice**





Exciting developments

This was another exciting year in the development of AvMA and one of continued uncertainty for the rights of people affected by medical accidents and the right of all patients to expect the safest possible treatment. It was a year which saw AvMA continue to exert considerable influence in our quest for better patient safety and justice for those people who are affected by medical accidents.

It was a year which saw development of the services AvMA provides to people working in the legal system – developing good practice with solicitors, barristers and medical experts – and which saw us expand our role in informing and training health managers and professionals and other patients groups. And it was a year in which we continued to provide good quality advice, information and support directly to people affected by medical accidents and developed our plans to develop and update the service to meet the challenges of today. You will find more detail about the work we have done and the issues we have tackled in the following sections under the headings Influencing Policy and Practice; Advice, Information and Support; and Developing Good Legal Practice.

It was also a year which saw AvMA rise to the considerable challenge of overcoming a large projected financial deficit for the year and turning it into a small surplus to add to a much needed contingency reserve. AvMA faces even bigger financial challenges in the coming years if it is to continue to grow as an effective source of influence and support for patients and their families and we will be seeking help from those who support our aims in order to achieve this. Read more under Finance.

Important internal changes during the year included the retirement as a trustee of AvMA's founder and life president, Peter Ransley, and his wife Cynthia. It was Peter's television play 'Minor Complications' that was the inspiration for the creation of AvMA in 1982, and it was around their kitchen table that AvMA was 'born'. We owe a tremendous debt of gratitude to them both. The year also saw the arrival of several new trustees: Eva Jacobs; Dr Umesh Prabhu; Michaela Willis; Barbara Ross; and John Lyon-Taylor. Collectively, our board of trustees now has an ideal blend of experience and 'freshness'. A large proportion of our trustees have direct experience of the effects of medical accidents and the systems for dealing with them; and together have considerable skills and experience of health care, health management and systems for improving safety and investigating incidents.

Influencing Policy and Practice

The huge changes proposed to the way that the NHS deals with clinical negligence in England heralded in the chief medical officer's report *Making Amends* did not materialise during the year, but there was much activity around the debates it stimulated. AvMA's made a robust and well argued response to the consultation, which welcomed the overall aims of the proposals and gave credit for what we saw as the positive potential within them as well as explaining why some were against patients' interests or unworkable. AvMA's credibility stood us in good stead in the discussions and influence we have had with the chief medical officer himself, with politicians and civil servants. We hosted a fringe meeting (jointly with the Medical Protection Society) at the Labour Party conference which was addressed by health minister Rosie Winterton. We remain supportive of the concept of resolving clinical disputes without having to resort to the legal system and dealing with the injured patient's or family's overall needs of information, explanation and assurance that safety will be improved following medical errors, as well as receiving the treatment and compensation they need and deserve. Our key concerns have been to ensure an NHS Redress Scheme could deliver these by ensuring that there was a guarantee of specialist, independent advice and representation for people seeking redress and more independence brought to bear on determining their rights to it. We have argued strongly that the proposed scheme for severely neurologically impaired babies ran the risk of short changing some of the most needy and deserving of cases in order to be seen to provide a better response to some (but not all) children whose injuries might have nothing to do with negligent treatment. We have argued that the NHS should be providing a good quality service to all such children rather than restricting the rights of those injured through negligence. We have subsequently learnt

that our main arguments appear to have been taken on board and that whatever the final form of the NHS Redress Scheme, it will be far better for patients than would have been the case had we not been at the fore of the debate, able to argue from a position of experience and expertise.

We continued to try to be proactive as well as reactive in influencing policy to improve patient safety and the way that people are dealt with following a medical accident. Our training and conferences were developed to suit a wider audience than just our traditional medico-legal audience. Successful conferences were held on The NHS Complaints Procedure and Understanding Clinical Negligence in the NHS, helping improve awareness and understanding amongst health professionals, managers and groups working with patients. We also provided a number of in-house training events for providers of Independent Complaints Advocacy Services (ICAS) and participated at several events for health professionals and managers.

We responded to formal consultations on Funding for Representation at Inquests; the Future of Legal Aid; Strengthening the General Dental Council; General Medical Council Licensing and Revalidation Regulations; the Future of Patient & Public Involvement; the Use of Experts in civil cases; Conditional Fee Agreements; and the Healthcare Commission consultation on

'Assessing for Improvement'

including their Patient Safety standard. Each response requires significant thought, research and discussion. We are fortunate to have the services of an experienced and accomplished Policy & Research manager in the form of Liz Thomas as well as



'AvMA not only plays a unique and vital role helping people to seek redress, it also helps ensure that lessons are learnt and steps are taken to improve patient safety and complaints processes. Without AvMA, people who suffer medical accidents would not have a voice to influence practice and policy-making.'

**Frances Blunden, Principal Policy Advisor,
Which?**

active input from all staff and trustees and our external friends and partners. We were particularly pleased that our significant input into the Shipman Inquiry was prominently reflected in Dame Janet Smith's report.

AvMA places great emphasis on partnership and were particularly pleased to be asked to play an active role by the National Patient Safety Agency (NPSA) in their development of policy guidance on 'Being Open' and in developing proposals for Patient and Public Reporting patient safety incidents, as well as ongoing liaison and collaboration on patient safety work. We were pleased to develop our relationships with the Legal Services Commission and Department for Constitutional Affairs and to have been involved in their consideration of the use of conditional fee agreements ('no-win no-fee') in clinical negligence cases. We contributed to the Civil Justice Council's discussions on the use of experts. We also continued to be an active member of the Clinical Disputes Forum and the GMC patient reference group. AvMA is also a member of the national Patients Forum and during the course of the year took forward our own work on bringing together a network of patients or 'self-help' groups with a specific interest in patient safety and justice – the Medical Harm Self-Help Network, which we hope will provide more opportunity for a co-ordinated voice and involvement of smaller groups with direct knowledge and experience of medical harm and mutual support in reaction to specific problems (ranging from MRSA Support, to localised problems such as the Leicester Epilepsy Concern group, to groups responding to particular injuries such as Erbs Palsy).

During the year AvMA's sphere of influence extended internationally. AvMA was cited as an example of patient involvement in patient safety in the launch of the World Health Organisation's World Alliance for Patient Safety initiative, and developed contacts with like-minded patients' organisations in Europe.

Please see our *Prescription for Patient Safety and Justice* (at the back of this report) to see some of the key issues AvMA is currently campaigning on.



Advice, Information and Support

The AvMA's Helpline for people affected by medical accidents continued to be busy provide a valuable service. During the year we dealt with 2,323 calls, providing an understanding, sympathetic response as well as practical advice and information about rights; how to get an investigation into what had happened; explanation of some of the medical or legal issues; and where to get specialist support. Where necessary, callers are invited to send further information to be helped through our written casework service. This can involve detailed analysis of a case, including analysis of medical records and correspondence in order to give advice to the client about

the next steps which they might take, including referral to a specialist clinical negligence solicitor if appropriate. During the year we opened a total of 1,232 new written casework files. In addition we developed our website as an online resource from which people can read or download our written information and advice and we continued to issue self-help information packs to those requesting them. We provided 2,002 information packs during the year.

This brings the total number of enquiries responded to during the year to 5,557. In addition, our website is now increasingly used by members of the public who are able to access and download information themselves.

AvMA has always placed great emphasis on partnership with local providers of advice such as Community Health Councils (CHCs) in England before they were abolished. We continue to have a fruitful partnership with CHCs in Wales and Health & Social Service Councils in Northern Ireland (and Health Councils in Scotland until their abolition in March 2005). AvMA played a key role in the development of the new Independent Complaints Advocacy Service (ICAS) in England. The evaluation of the pilot stage (the only independent evaluation ever undertaken of ICAS) acknowledged the importance of AvMA's specialist support to local ICAS and we worked hard to forge strong partnerships with the ICAS providers appointed by the Department of Health. We were therefore bitterly disappointed that three of the four providers in England decided to water down their service and sever their formal arrangements with AvMA. Whilst we are pleased to still be involved with ICAS in the South East, we are concerned that the same level of support is not being provided elsewhere. For example in the East Midlands when we checked, complainants who mentioned the mere possibility of wanting compensation were being directed straight to the personal

injury claims department of a local firm of solicitors. At the time of going to press there is continuing uncertainty over the future of

"Your website is incredibly informative, especially when someone finds themselves in a position where they want to take action, but have no clue how and where to initiate the first step."

Mr D, 18/10/04

ICAS post March 2006 when the Department's temporary contracts run out.

When people come to AvMA we look at their needs holistically. We do not see them just as a potential compensation claimant or complainant but as individuals with a range of personal and practical needs. As well as the advice and information described above we are constantly looking at developing other ways in which we can support people in the aftermath of a medical accident. We continue to maintain a support network including a 'contacts register' through which people can make contact with other AvMA clients who have had similar experiences for mutual support. During the year, in collaboration with Josephine Ocloo (a volunteer with AvMA who has personally been affected by a medical accident) and John McConnell, we piloted 'medical harm support workshops' designed to help people come to terms with the emotional turmoil created by medical accidents and move on to lead as fulfilling a life as possible. The feedback we received has shown this approach to have great potential and we plan to take the initiative forward in the coming year.



"Thank you for your very thorough letter. Part of me feels as though a weight is beginning to be lifted"

Mrs S, 12/11/04

Developing Good Legal Practice

AvMA's Legal Services Department was re-configured during the year with Legal Director Fiona Freedland taking overall responsibility for legal services and policy and the recruitment of Andrea Johnson and Kitty Williams as joint Lawyers Service Managers. Andrea and Kitty are both lawyers with nursing experience. The department continued to develop its service to lawyers working for claimants in clinical negligence cases. Over 300 solicitors' firms and barristers chambers are members of AvMA's lawyers' service. The department dealt with approximately 5,000 enquiries during the year. AvMA's legal newsletter and e-mail alert system has been particularly appreciated by lawyers for the way it keeps them up to date with the latest legal and health policy and case news. The medical expert service is frequently used by lawyers to obtain recommendations of the most suitable medical experts to give advice in their cases. The service benefits from regular screening and feedback from lawyers about the experts on the AvMA database. AvMA's staff are also available to give further advice on medical or legal issues, conduct background research, and discuss expert's reports. Christine Daley, a nurse who also has a degree in law was another addition to the department's formidable team. A significant development of the service during the year was the creation of a lawyers service website including discussion forums for easy sharing of good practice and information between members as well as access to up to date information from AvMA. During the year we also updated and improved the *AvMA Journal* which is published six times a year as part of the well respected journal *Clinical Risk*.

Lawyers service staff work closely with AvMA's conference staff – Michelle Handscomb and Helen Mansfield – to help ensure that lawyers get the training they need. The annual clinical negligence conference held in Birmingham was the biggest and most successful to date, whilst other conferences and events during the year, from an introduction to clinical negligence to advanced surgery and representation at inquests continued to make a significant contribution to the professional development of clinical negligence specialists. We also ran a very prestigious event on the medico-legal issues in reproductive medicine. This was run in conjunction with Imperial College, with Lord Professor Winston as a keynote speaker.



"It has been invaluable to have the facility to deal with so many individuals who have been so knowledgeable, helpful, and at the same time, pleasant to deal with."

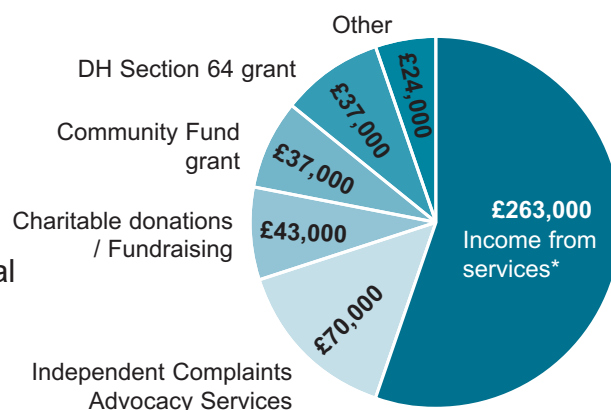
Mary Burke, Lester Morrill

As well as helping develop good practice in the field of clinical negligence, AvMA's legal services work closely with the chief executive and policy & research manager on legal policy issues. The two consultations from the Legal Services Commission on the future of legal aid in civil cases and on the use of experts involved all the legal team and in the case of the consultation on the use of experts, a survey of AvMA's list of medical experts added weighty evidence to our formal response to the LSC. This signals the start of a much more proactive role in supporting and developing our work with medical experts, adding further value to the service, which is the only one of its kind in the field of clinical negligence. AvMA also continued to provide a professional and highly regarded risk assessment service on behalf of insurance underwriters for conditional fee agreements.

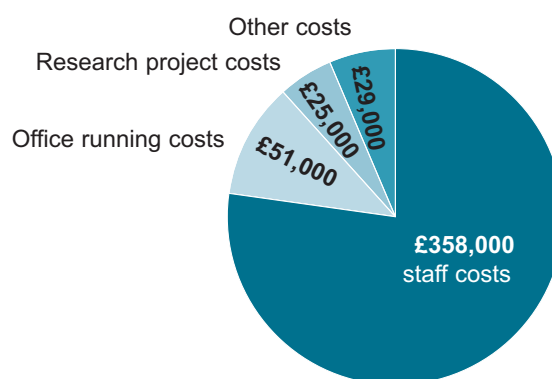
Finance

This is a summary of AvMA's financial income and expenditure for the year 2004-2005. It deals only with the charity's income and expenditure. AvMA also has a trading subsidiary – AvMA Services Ltd. The combined turnover of the charity and trading company for the year was over £1 million. For a fuller understanding of the charity's finances refer to the annual report and audited accounts, which are submitted to the Charity Commission and Companies House each year. The headline issue for the year was that through a remarkable effort by all staff, a record-breaking year for conferences, and the generosity of our supporters, AvMA managed to turn around a projected deficit for the year of over £100,000 and translate it into a surplus of some £11,000 which was added to AvMA's much needed contingency reserves. In addition to the success of conferences, the situation was helped through a grant from the Department of Health 'section 64' programme for voluntary organisations, and the success of our appeal for donations from medical experts who are listed on our database. However, the success of this year should not obscure the extremely challenging financial situation faced by the charity yet again in the forthcoming year. With the loss of income from ICAS and the end of funding from the Community Fund AvMA once again faces a potentially large deficit which might significantly eat into the contingency funds that have fortunately been built up to meet this eventuality.

The charity's total income for the year of £474,000 is broken down as follows:



Expenditure for the year totalled £463,000, which is broken down as follows:



** Each year the 'profit' from income generated by AvMA's Trading subsidiary AvMA Services Ltd is transferred to the charity. From April 2005 all activities will be conducted under the auspices of the charity itself and reflected in one set of accounts.*

Can you help?

AvMA relies heavily on the charitable donations it receives. We wish to express our gratitude to the individuals who donated to the charity, including past clients and medical experts, and would also like to thank the organisations who made special efforts to raise funds for AvMA during the year. For reasons of confidentiality and space we can not mention everyone here, however our special thanks are due to:

David Kerry of Attwater Liell Solicitors and everyone who sponsored him for the London Marathon, raising an amazing £3,653!

Evill & Coleman Solicitors (now merged with Russell- Cooke) whose charity golf day raised £1,700 for AvMA.

Doughty Street Chambers who donated the proceeds from their Stroke seminar to AvMA, amounting to £900.

Alexander Harris Solicitors who donated the proceeds of their Human Rights seminar to AvMA, raising £1,300.

If you are entering an event and are interested in raising funds for AvMA or are part of an organisation that may hold an event which could benefit AvMA, please contact Margaret on 020 8688 9555.



Trustees and Staff

Trustees:

Rita Lewis (Chair)
Maeve Ennis (Vice-Chair)
Alexandra Jones (Treasurer)
Celia Davies
Graham Girvan
Sir Donald Irvine CBE
Dr Eva Jacobs
John Lyon-Taylor
Dr Umesh Prabhu
Jean Robinson
Barbara Ross
Siôn Simon MP
Michaela Willis MBE
Clive Wilson

Management Team:

Peter Walsh,
Chief Executive

Hugh Williams,
Deputy Chief Executive

Fiona Freedland,
Legal Director

Michelle Handscomb,
Conference Manager

Andrea Johnson,
Lawyers' Service Manager

Louise Price,
Advice & Information
Manager

Charles Sweeney,
Finance Manager

Liz Thomas,
Head of Policy & Research

Lizzie Thomas,
Office & IT Manager

Kitty Williams,
Lawyers' Service Manager



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(for administration only)

Client Helpline Calls only:
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(open 10-12 and 2-4 Mon-Fri)

Fax: 020 8667 9065
e-mail: admin@avma.org.uk
Website: www.avma.org.uk

Charity Number: 299123

AvMA's Prescription for Patient Safety and Justice

Our mission at AvMA is to achieve better patient safety and justice for people who have been affected by medical accidents. We believe that patients have the right to expect that all reasonable steps will be taken to ensure that they are not harmed as a result of avoidable errors or omissions in medical treatment.

We also believe that anyone who has been affected by a medical accident has the right to full and honest explanations, support, assurance that steps will be taken to reduce the risk of repetition, and where appropriate, compensation.

Below we set out the key areas on which we are currently campaigning for change to help improve patient safety and justice.

Demonstrable Improvements in Patient Safety

Having succeeded in getting patient safety put higher up the agenda we are pushing for evidence that safety is actually being improved. We are calling on each NHS trust to publish its rating for the clinical negligence scheme for trusts; and for independent assessments on progress in addressing known risks such as hospital acquired infections, birth related injuries and surgical errors.

Openness and Honesty when medical accidents occur – an end to ‘conspiracies of silence’

We are seeking teeth to be given to guidance being issued to health

professionals and bodies about being open with patients and families when a medical accident occurs. Trusts should be monitored for compliance with the guidance and action taken where required, as well as a programme of training and education to help foster a genuinely ‘open and fair’ culture.

A genuinely fair Redress Scheme for people harmed by the NHS

We are seeking improvements to the government’s proposals for an NHS Redress Scheme in England. In particular, we are calling for independent specialist advice & representation for patients/their families and more independence in determining eligibility for compensation.



Access to Justice for all UK patients harmed by clinical negligence

We are calling for urgent improvements to the way the civil justice system deals with clinical negligence in Scotland and Northern Ireland, where access to justice is even harder to achieve than in England and Wales. We are calling upon devolved governments in Scotland and Wales to develop their own versions of the proposed NHS Redress Scheme in England, and funding for representation at inquests.

Robust local systems for support of complainants, and patient involvement in monitoring the NHS

We are calling for urgent action to address the problems caused by the abolition of Community Health Councils (CHCs) in England. In particular, the putting in place of a permanent Independent Complaints Advocacy Service (ICAS), with access to specialist support from AvMA, and

ICAS being more integrated with the monitoring work of patient and public involvement forums in line with legislation and ministerial commitments.

Putting Patients at the centre of Patient Safety

AvMA is seeking support for its proposals to provide training and support to enable patients to play an active part in patient safety or local 'clinical governance' work and for improving the involvement of patients and relatives in healthcare decisions and assessment / reduction of risks.

Improved safety of care and access to justice for older people when errors occur

We are calling for priority to be given to reducing medical accidents affecting older people both in hospital and community settings such as nursing homes, and for unfair barriers to older people's cases receiving legal aid to be removed

For more information log onto our website: www.avma.org.uk

We welcome the support of individuals and organisations who share our concerns and are committed to working in partnership with others to address them. If you agree with our campaigns, write to us with your comments and/or send us a donation at:
AvMA, 44 High Street, Croydon, CRO 1YB.

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for patient safety
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