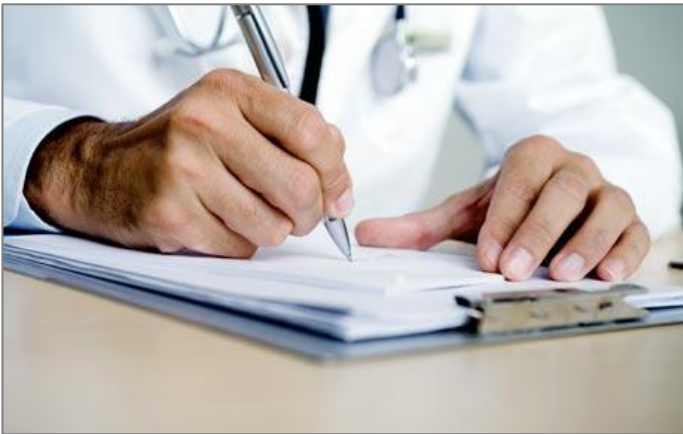


Medical Evidence & the Medical Appointments Procedure

Personal Injury

In personal injury cases medical evidence is crucial in establishing your injuries and the value of your claim. Often, **medical experts are needed to deal with assessing present condition and future prognosis**. This involves considering the injury you have sustained and the extent of your recovery. It is also important in cases where you are not yet fully recovered, to predict how your injury may heal in the future and to what extent and how long this process may take.

Experts will also be asked to consider whether your injury may impact your capacity to work, to what extent, and whether or not your injury may impact on your employability. The expert may also be asked to consider whether any care provisions should be made and to comment on any future treatment which may assist your recovery.



Clinical Negligence

Clinical negligence is different from Personal Injury in that medical reports are required to establish liability and to determine present condition and future prognosis. In clinical negligence there is a two stage legal test to be satisfied; often medical evidence is required to prove your case.

Firstly we **have to prove that the treatment you received fell below the lowest acceptable standard**, in that the medical practitioner breached their duty of care. If the Defendant can point to a “reasonable body of medical practitioners” who at the same time would have acted the way the Defendant did, then the Defendant will have a Defence.

Secondly, we **have to prove that ‘but for the allegedly negligent treatment the outcome would have been different’**. We must establish that definable loss and damage has occurred as a direct result of the allegedly negligent treatment or failure to treat, this is referred to as causation.

Without supportive medical evidence to prove both of these elements we are unable to prove liability in a clinical negligence matter. As a result obtaining your medical records and obtaining expert medical reports is crucial.

On review of medical records, should the prospects of success be deemed sufficient to continue, a medical expert will be instructed to address whether the treatment you have received was negligent and if so whether that negligence caused any injury or damage. If the report is supportive then further medical evidence



will be obtained to assist in assessing the amount of damages which should be claimed. **You will need to be interviewed and examined by an independent medical expert to assist in the preparation of this report. The report will deal with the injuries you sustained as a result of the negligence and a prognosis for recovery. The level of compensation will in part be assessed based on the expert evidence.**

The Process:

The medical evidence procedure will begin with a detailed discussion about the various healthcare providers you have visited in relation to your injuries and in Clinical Negligence cases, those visited in relation to the alleged negligence. It is important to try to consider the names of the people treating you, particularly if you have had dental treatment or private healthcare.

Forms of Authority will then be sent out to you for you sign. Upon receipt of the completed Form of Authority your medical records will be requested. Record providers have 40 days to disclose records after which a court application can be commenced to obtain records.



Upon receipt of all medical records they will be reviewed, and sent to the medical expert. In Clinical Negligence cases or more complex Personal Injury cases, your records may be reviewed by a nurse, into chronological order and a medical records timeline will be prepared detailing all events relevant to the claim.

Any medical report will be sent to you for

your consideration. The medical evidence will need to be disclosed to the defendant to support your claim and therefore you must always check the accuracy of any report.

Any appointments with medical professionals which you attend are for the purpose of your claim only. The expert will not be able to provide you with advice on your injuries or give you any further treatment.

We will always seek to obtain medical evidence and arrange medical appointments at the earliest opportunity. However there can be delays as sometimes the best experts have long waiting lists, but expert evidence is absolutely crucial to the success of an action.

Ontime Group:

At Express Solicitors, obtaining records, instructing experts and arranging medical appointments is all conducted through 'Ontime Group Ltd', a medical agency.

We will fund the cost of this process and in the event you win your claim such sums should be recoverable from the Defendant. If you lose your claim, the After the Event insurance policy, taken out at the outset of your claim, will reimburse those disbursements at no expense to you.

Once you have received notification of an appointment it is important that you contact both Express Solicitors and Ontime Group Ltd to confirm that you are able to attend. Failure to attend without giving notice of a cancellation may result in a cancellation fee being levied for which you will be responsible.

