

CLINICAL NEGLIGENCE LAWYER BAND 7

Job Summary

As a junior lawyer, to work in a supervised position, building on experience gained. All key duties and responsibilities are managed by a supervisor with supervision as required. To act for NHS Trusts and Local Health Boards in the management of clinical negligence/personal injury claims/inquests/public inquiries/concerns and provision of advice. To investigate factual circumstances of cases and to advise the Trusts/LHBs upon management of legal proceedings. To represent the Trusts/LHBs in formal legal proceedings, attending Court and undertaking advocacy in chambers or in open court, at private or in public hearings as required. To advise the Trusts/LHBs in relation to the management of claims, defence, or settlement where necessary. To provide general advice to Trusts/LHBs upon a variety of healthcare issues, often on an urgent/emergency basis. To provide educational seminars to Trusts/LHBs to educate staff in relation to legal, clinical and risk management issues. To work as part of a team to undertake quality audits of the Trusts/LHBs as required, to monitor and suggest improvements to promote best practice upon a variety of healthcare issues.

Responsible to

Reporting: Team Leader/Senior Lawyer

Accountable: Director Legal & Risk Services

Professionally: Director Legal & Risk Services and the Solicitors Regulation Authority

Responsibilities and Duties

All key duties and responsibilities carried out with supervision.

1. Day to day management of clinical negligence/personal injury claims on behalf of NHS Trusts and Local Health Boards, many of which are highly sensitive and highly complex. The value of claims ranging from £500 to £1m. These duties include:

- Considering instructions from the Trust/LHB and entering factual, medical, and legal information on the L&RS computerised case management system.
- obtaining patients' medical records and, on occasion, considering whether disclosure to the patients' legal representatives is appropriate with reference to the Data Protection Act and the Access to Health Records Act.
- reviewing patients' medical records to identify relevant members of staff implicated in the claims, to gain knowledge of the clinical and legal issues, to identify what further information is needed to investigate, ascertain whether there is a legal claim against the Trust and to provide preliminary legal advice to the Trusts/LHB
- to liaise with the client, to contact and interview clinical staff and other health care professionals to obtain evidence to assist in the investigation of the claim, investigating the location of the incident, to draft witness statements for use in the Court proceedings and to advise witnesses/staff as to their legal position.
- to consider when expert advice is required, to identify suitable medical and nonmedical experts within differing specialities to provide independent expert reports to assist in the investigation, to formally instruct experts to prepare reports, clarifying the exact nature of their instruction and the clinical/legal issues they need to consider, to review the reports, identifying where clarification is necessary, and to advise the Trusts/LHBs of their position in light of the experts' findings;
- to consider when advice/representation from a Barrister is necessary, to identify a Barrister with the relevant expertise, to formally instruct the Barrister to advise/represent the Trust/LHB, clarifying the exact nature of their instruction, to

review their advice, identifying where clarification is necessary, and to advise the Trusts/LHBs of their position in light of the advice. • to liaise with other third parties, Claimants', and Co-Defendants' Solicitors, Legal Services Commission, Court officers, the public and the media whilst protecting the interests of the Trusts/LHBs. • to obtain and consider all evidence and assess the Trust/LHB's position in light of the same and advise upon whether defence is possible or if settlement is appropriate, to provide said advice in detailed yet understandable correspondence or to advise in conference • To take accurate notes of meetings, court hearings, inquests, and case conferences for use in drafting advice and legal documentation such as witness statements and instructions to counsel and experts. • to draft pre-action formal documents and Court documents, to attend Court and undertake advocacy in chambers or in open court, at private or in public hearings as required, in relation to various issues whilst complying with professional requirements set down by the Solicitors' Regulation Authority, to take an active role where appropriate in the development of the law and creation of legal precedent and to progress matters to a formal trial where appropriate. • to undertake investigations and research into valuation of damages, considering all the evidence and applying Court guidelines and established legal cases, to advise the Trust/LHB when settlement is appropriate and identify suitable brackets for negotiation, to negotiate with Claimants and Claimants' Solicitors in order to ensure that settlements are proportionate in relation to the injuries suffered. • where Trusts/LHBs are successful in claims, to calculate costs incurred by the Trust and to prepare breakdown/Bill of Costs and seek to recover the same from the unsuccessful party to the action to include Court attendance at detailed assessment hearings if settlement cannot be agreed. • where Trusts/LHBs are subject to costs orders, to receive Bills of Costs from the successful party, to consider the same and advise the Trust/LHB as to whether each item claimed is reasonable and proportionate in terms of complexity of the case, time spent on the file and the appropriate fee earner, to negotiate and settle, to include Court attendance at detailed assessment hearings if settlement cannot be agreed. • to provide oral and written advice updating the Trust/LHB's on the progress of proceedings at regular intervals throughout the conduct of the case, provide advice at the conclusion of the claim regarding any risk management issues identified, any changes in practice or policy necessary/advisable and management/discipline of staff. • to provide cover for colleagues in cases of absences on holiday, maternity, or sick leave to include management of files as above and Court attendances. • To effectively plan workload to be able to comply with court deadlines and protocol timetables, obtaining the appropriate evidence and ensuring submission of the appropriate forms, over a significant period. • To maintain an up-to-date knowledge of relevant legislation and case law.

2. To research and provide general advice to Trusts/LHBs upon a variety of healthcare issues. Such advice can be in relation to a variety of subjects to include management of Jehovah's Witnesses patients, disclosure of confidential information to third parties such as the police, capacity, and consent to treatment. This advice can be requested on an urgent basis and can involve liaising directly with clinical staff, healthcare professionals, patients and making emergency applications to Court.

3. To provide estimate of costs of proceedings to Trusts/LHB's and to regularly enter financial forecasting information about each case handled on the L&RS case management software in order to provide for each Trust/LHB, the estimated date of conclusion, and the likely costs to be incurred ensuring accurate and current information is provided to enable the NHS generally to be aware of its financial liabilities and to set aside funds accordingly for each financial year.

4. To provide financial information for use by the Welsh Government in respect of potential liabilities to enable the NHS budget to be adjusted accordingly.

5. To keep accurate records of time spent in daily activities via the computerised case management system, to enable costs to be recovered in appropriate cases and for NHS audit and reporting purposes.

6. To update the L&RS computerised case management system at each stage throughout the claim, to ensure accurate information for file review and audit purposes and to comply with requirements for Lexcel accreditation by the Law Society.

7. To attend regular in-house solicitor meetings to promote sharing of information.
8. To establish and maintain good relationships with claims handlers, clinicians, health care professionals, colleagues within Legal & Risk, Court Officers, witnesses, experts, etc.
9. To provide educational seminars to medical/nursing/admin Trust staff in relation to legal, clinical and risk management issues.
10. To comply with the SRA requirement to undertake Continuous Professional Development (CPD) and training each year and maintain the required training and development plan on a regular basis to enable the team manager to monitor compliance.
11. There is an expectation for the post holder to use speech recognition software to produce their own correspondence.
12. To occasionally represent the HBs/Trusts at inquests.
- To provide advice and represent HBs/Trusts at public inquiries.
13. To provide advice to HBs in respect of legal issues arising in Concerns/Redress matters. To provide substantive advice to the Trusts/LHBs as required in writing, or by spending time within the Trusts/LHBs and providing workshop/ad hoc advice sessions on a face-to-face basis.

PERSON SPECIFICATION

Qualifications and Knowledge

Essential

Law Degree & Postgraduate Diploma in Legal Practice (or equivalent)

Qualified with litigation and advocacy rights

- Qualified solicitor admitted to the roll of solicitors of England and Wales
- CILEx Litigator and Advocate (Civil)
- Qualified barrister admitted to the bar in England and Wales (Or committed to qualifying with these rights within 6-12 months)

Desirable

Structure of the NHS.

Relevant healthcare related law.

Experience

Essential

Experience gained through training in clinical negligence/personal injury/public inquiries.

Desirable

Experience of drafting documents and advice to clients.

Defendant/claimant clinical negligence experience

Skills and Attributes

Essential

IT Skills/Computer literate to include the ability to learn new technologies and IT introduced.

Ability to communicate in all formats, in plain English.

Ability to negotiate in often difficult or emotional circumstances.

Conscientious, confident, flexible, and professional approach to work Ability to prioritise and organise own work.

Ability to recognise own capabilities.

Evidence of excellent client care skills.

Welsh Language Skills are desirable levels 1 to 5 in understanding, speaking, reading, and writing in Welsh.

Other

Willing to undertake further professional development.

Able to travel to undertake the duties of the post at various locations.