



# GENERAL SURGERY CLINICAL NEGLIGENCE CLAIMS

General surgery is a wide-ranging term which, as it suggests, covers a variety of surgical procedures. In 2014/15, the Royal College of General Surgeons reported that of the just over 17,000 surgeons registered, nearly 5,000 were practising in the field of general surgery.

So what does general surgery cover? It is a surgical speciality that focuses on the abdominal contents and includes the oesophagus, stomach, the small bowel and colon, the liver, pancreas, gallbladder and bile ducts. Sometimes general surgeons also specialise in colorectal surgery as well, which relates to treatment of the small bowel and colon as well as the rectum and anus.

At Penningtons Manches Cooper, we receive a large number of enquiries from patients who are unhappy with the outcome of their surgery. The types of enquiry that we receive and deal with as part of the surgical claims team may relate to gallbladder surgery; hernia repair or problems with recurrence; injury to the bowel, bladder or other internal organs during surgery; failure to properly consider with patients the alternatives to surgery and failing to advise properly on the risks of the surgery planned; failing to appropriately manage the patient in the post-operative period; and failing to respond to any deterioration or signs of infection.

All of these events can have a significant impact on an individual both physically in respect of any additional treatment, hospital stay and recovery period, and also psychologically in respect of how their condition has been managed and the impact of any deterioration or worsened outcome upon their ability to work and go about their daily lives as intended.

If you have had general surgery and are unhappy with the outcome, there are some key points to consider:

- When did the surgery take place?
- What testing or investigation was carried out before the surgery was recommended?
- What information was I given about the surgery?
- Were there any alternatives to surgery that I was eligible for?

- What was I told about how long I would be in hospital for and how long I would be off work or require care following surgery?
- How was my post-operative recovery? Did I require any intensive care that I was not expecting?
- Were there any complications and did I have any additional treatment or have to return to theatre for more surgery?
- Did I develop an infection or require antibiotics that I was not expecting?

## HOW LONG HAVE I GOT TO MAKE A CLAIM?

The general rule in clinical negligence claims is that you have three years from the date of the injury sustained, or your knowledge of that injury, to bring a claim before it will become time barred. Usually that three year period starts to run from the date of the surgery, but sometimes it can be later if you were not or could not have been aware of a potential problem with your surgery, or the advice given to you, until sometime later. It is best to commence the investigation into any concerns relating to your medical care sooner rather than later. This is so that the appropriate evidence can be obtained and the relevant parties' recollection of events will also be clearer.

We will consider carefully with you the potential issues in your care and discuss when the limitation period for bringing a claim expires.

## ISSUES WITH CONSENT?

If you are concerned that you were not given the right information about your surgery and the treatment that was available to you, or about the risks of the treatment proposed and undertaken, and you feel you would have made different choices had you been provided with this information, there may be a claim to be made on the basis of 'consent'. This is a legally complex area and it may also overlap with other issues relating to your care. We will consider with you, if appropriate, whether you were given the correct information about your treatment and whether there are any issues regarding the information you were given.



### WHY BRING A CLAIM FOR COMPENSATION?

We always advise people to think carefully before bringing a claim – as it takes time, and by definition involves a focus on the negative as patients go over the events in question. However, for those who have a poor outcome as a result of a failing in their surgical care, the difference that bringing a successful claim makes to their life can be significant. Examples of the areas where we can claim and recover damages are:

- compensation for lost earnings;
- funds to pay for care and / or domestic assistance;
- funds for private treatment that may be required in the future; for example, if further surgery is required or may be required; and
- funds for private treatment that will improve the condition and quality of a patient’s life; for example, physiotherapy, pain management, medication and counselling / psychological therapy.

If you or a family member have concerns about previous surgery and feel that the care provided was not appropriate, we are happy to talk to you or visit you, in the first instance on a no charge and no obligation basis, to go through what happened and advise you on whether you have grounds for a clinical negligence claim.

**FIND OUT MORE**  
 For further information or to discuss your potential claim with an experienced solicitor, please contact a member of the surgical errors team directly:  
 T: 0800 328 9545  
 E: [clinnegspecialist@penningtonslaw.com](mailto:clinnegspecialist@penningtonslaw.com)

