



# VAGINAL MESH MEDICAL NEGLIGENCE CLAIMS

Historically since the late 1990s around 15,000 women a year underwent surgery to insert mesh to treat pelvic organ prolapse (POP) and stress urinary incontinence (SUI). 'Mesh' is the term used to describe different types of manufactured biological or synthetic implantable devices. Since 2013, however, the number of mesh procedures has significantly reduced due to the complications associated with mesh becoming more widely recognised.

POP is when one or more of the organs in the pelvis fall out of their normal positions and bulge into the vagina. It can be the uterus (known as uterine descent), bowel (known as rectocele) or bladder (known as cystocele). A prolapse is not life-threatening but it can cause pain and discomfort.

SUI is the unintentional loss of urine. It happens when physical movement or activity such as coughing, sneezing, running or heavy lifting puts pressure (stress) on your bladder. SUI is a very common bladder problem for women.

Although vaginal mesh can be an effective form of treatment for many patients, it is now believed to be responsible for a number of complaints due to its potential erosion within the body, causing complications that include repeated infections, pelvic pain while walking, pain during sex and, in some cases, cutting through the vaginal wall.

Common symptoms include:

- unusual bleeding or discharge
- pelvic pain or swelling
- chronic infections
- discomfort during intercourse
- new bladder or bowel symptoms
- pain in the vagina

It is estimated that between one and three per cent of women who undergo vaginal mesh implants suffer

from complications but recent hospital figures indicating that one in ten women suffer adverse effects.

## COMMON COMPLICATIONS OF A VAGINAL MESH IMPLANT

### Vaginal mesh extrusion

Mesh extrusion refers to the mesh being exposed through the vaginal skin and is the most common complication encountered. Mesh extrusion can cause vaginal bleeding, vaginal discharge and pain. It can also make intercourse painful for both participants. It can occur with incontinence surgery or prolapse surgery done vaginally or abdominally.

### Vaginal mesh erosion

If the mesh erodes it can cause injury to surrounding tissue and organs. This is incredibly painful and often causes recurrent infections. Unfortunately, as the mesh often affects other organs, it is much more difficult to treat than vaginal extrusion. Some women require multiple surgeries to remove part or all the mesh. However, on most occasions, complete removal is not possible.

### Chronic pain

Studies have found that mesh is associated with chronic abdominal or groin pain. Removal of the mesh does not guarantee that the pain will be resolved.

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

Court proceedings must be issued within three years from either the date the negligence occurred or within three years from the date you became aware that the treatment you received may have been negligent.

In some cases, women will notice symptoms shortly after surgery while others do not develop symptoms indicative of complications for some time. Therefore, even if you had a vaginal mesh implant some time ago, providing that you only recently started to experience complications and/or became aware that there might be a problem, you should still be able to pursue a claim.



## ISSUES WITH CONSENT

In order to give your informed consent for a medical procedure, you must have been informed of all of the 'material risks' of such procedure, including any risks the clinician thinks you may attach significance too, even if the chances of that risk materialising are low. You must also be made aware of any reasonable alternative treatments that could be available to you such as non-surgical intervention like pelvic floor exercises.

Therefore, even if you signed a consent form, you may still be able to bring a claim, providing you were not informed about all the material risks and/or the reasonable alternative treatments.

## COMMON VAGINAL MESH CLAIMS

In most claim cases a vaginal mesh should never have been used in the first place. The three main reasons for not using mesh are because the patient has relatively minor prolapse symptoms or stress incontinence which are not bothersome; the patient's symptoms have not been confirmed in tests; or conservative management alternatives have not been tried. For example, the recommended first line treatment for POP and stress incontinence is conservative management to include pelvic floor exercises, physiotherapy and ring pessary.

There are also cases where the mesh was inserted wrongly due to a substandard surgical technique that caused complications.

We also find that many of our clients were not warned of the risks of vaginal mesh erosion or vaginal mesh extrusion before the procedure indicating that they had not given their informed consent.

## WHAT DOES THE CLAIMS PROCESS INVOLVE?

The steps in investigating a claim typically include:

- an informal discussion between the solicitor and the potential claimant in order to take a detailed
- history of the events and determine whether there are issues to be investigated;
- setting up funding;
- obtaining and reviewing any relevant

documentation such as medical records;

- obtaining independent medical expert evidence on whether the care you received was negligent and if so, whether this negligent care caused or materially contributed to your injury;
- sending the defendant a pre-action Letter of Claim setting out the basis of the claim against them;
- the defendant will then carry out their own investigations and provide a Letter of Response confirming whether or not they admit the allegations made against them;
- a review is then made to agree a way forward. It may be that a settlement is possible at that stage but if not, providing the medical experts remain supportive of the claim, court proceedings may need to be issued;
- thereafter the case will proceed through the court time table towards trial.

Often vaginal mesh cases are settled by way of negotiation without the need to issue court proceedings.

## WHAT DAMAGES MIGHT I RECOVER FOR A VAGINAL MESH INJURY?

There are two forms of compensation:

- **General damages** can be claimed for the pain, suffering and loss of amenity you have suffered as a result of the negligent care you received. This figure is based on previous court decisions and there are also judicial guidelines that provide estimated figures for specific injuries. The general damages awarded will largely depend on the extent of the injury and whether or not the claimant's symptoms are likely to improve over time or will remain on a permanent basis.
- **Special damages** can also be claimed for past and future losses which can be individually quantified. These include but are not limited to lost earnings; the cost of care and assistance from family and friends; additional travel costs; the cost of surgery/medical treatment on a private basis; the cost of aids and equipment; the cost of prescriptions and the cost of miscellaneous items such as sanitary products.



One of the financial benefits of bringing a claim is the funding you could receive to help with future treatment and rehabilitation as part of your recovery.

Interim funding may also be obtained if an admission is made by the defendant. This could help to support you financially while your claim is still ongoing.

## FIND OUT MORE

For further information, please contact:



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