

Focus

Summer 2010

Medical Law and
Patients' Rights in
the North East

Welcome... To our first edition of Medical Law and Patients' Rights Focus, the Irwin Mitchell Newcastle Newsletter. We will be highlighting important issues surrounding patient safety, giving examples of cases that we have been involved in, profiling our team and detailing some of our work with local charities.



Spinal Surgery

By Stephen Winn

Back pain is the single most common reason for sickness absence in the UK and can become a chronic and debilitating illness for those who suffer from it.

It is not surprising that many patients have surgery to treat their back pain. Surgical options include discectomy (to treat damaged intervertebral discs), laminectomy/decompression (to reduce narrowing of the spinal canal) and spinal fusion (to remove damaged discs and fuse the discs above and below). However, in our experience patients are sometimes not given enough information about the non-surgical treatment options. All surgery has risks including infection, bleeding and complications from general anaesthesia. Spinal surgery involves operating around the spinal cord and therefore also has particular risks of damaging the nerves which supply other parts of the body. The consequences of problems during spinal surgery can include numbness, pins and needles, loss of mobility or muscle control, sexual dysfunction, incontinence, increased levels of pain, symptom recurrence, and paralysis.

Alternatives to surgery should be tried, or at least considered if appropriate following thorough discussions and consultations with the medical team. They include epidural injections; Transcutaneous Electrical Nerve Stimulation (TENS); acupuncture; spinal mobility exercises; and physiotherapy. In particular, it should be remembered that in some cases the spine can heal itself with time and it is important not to see surgery as a quick fix.

Spinal surgery is at least an option for patients with severe back pain who have run out of alternatives. Because of the number of litigated cases involving back surgery, before the patient decides to go down the surgical route, it is vital that they go to the medical consultations with information and a full understanding of the risks involved and ask the right questions. It is also important to remember that surgery can also make the pain worse, rather than better.

Available Support:-

Irwin Mitchell work closely with the following national spinal charities to help clients get the best possible support available:

- The Spinal Injuries Association provides support and assistance to spinal cord injured people.
- Aspire offer practical support to people living with a spinal cord injury in the UK so that they can lead fulfilled and independent lives.

If you require support or would like any further information on spinal cord injury/surgery, please contact:

The Spinal Injuries Association

Telephone: 0845 678 6633

Email: sia@spinal.co.uk

Web: www.spinal.co.uk

Aspire

Telephone: 020 8954 5759

Email: info@aspire.org.uk

Web: www.aspire.org.uk

We also produce a spinal injury newsletter that looks at the world of spinal injuries in closer detail. If you would like to receive a copy, please complete your contact details on the back page and send to Rachel Watson, Irwin Mitchell LLP.



Michele's Story

By Jennifer Cawthorne

Michele instructed Irwin Mitchell Solicitors to investigate a potential claim for clinical negligence arising out of her treatment from back surgery.

After Michele had her first child, fifteen years ago, she started suffering from back pain. Michele is a mother of three children, whose husband often worked abroad for long periods.

Michele was referred to a Spinal Consultant, and in 2005 following a MRI scan and further tests, she was diagnosed with Degenerative Disc Disease. The disease affects the discs that sit between the individual spinal vertebrae. Michele said; "The consultant suggested that the spinal fusion treatment would be the best course of action as it would help alleviate much of the pain."

In April 2005 Michele underwent the surgery at Warrington General. She recalls; "I was instantly concerned there was a problem – post operation both my legs felt very different and I had a huge amount of pain in my left thigh, I couldn't feel anything from the knee down. I was prescribed morphine to try and control pain." After an agonising four days it was decided that Michele needed to be operated on again. Michele soon

learnt that one of the screws implanted to connect the disks had been pushed in too far and had caused nerve damage, she later learnt that the damage was permanent. Michele's injuries have had a devastating impact on her everyday life and her ability to care for her children, to the extent that her husband has had to change jobs in order to be at home.

Our independent medical experts advised that Michele should have been offered non-surgical options for management of her pain, which could have been as effective as surgery and much lower risk. Michele's case was settled out of court, but she is concerned to raise awareness of the issue and encourage patients to ask more questions about their treatment and the possible alternatives.

Michele's case exemplifies the reasons why non-surgical options should be carefully considered before proceeding to surgery for back problems.



Toby and Michelle's story

By Angela Kirtley

Toby Hart was born with quadriplegic cerebral palsy, after staff at the Friarage Hospital in Northallerton failed to realise that his heart rate was dropping and he was becoming distressed.

As a result, his delivery was delayed by 25 minutes and he was deprived of oxygen, causing severe brain injuries.

Toby's mother, Michelle Hart, instructed Irwin Mitchell Solicitors to investigate a potential claim for clinical negligence for Toby. After commissioning expert evidence, we put our allegations to South Tees Hospitals NHS Foundation Trust, who admitted liability for Toby's injuries. The next step is to investigate the value of Toby's claim in order to ensure that he is adequately provided with the care, accommodation, therapies and equipment that he needs for the rest of his life.

Michelle Hart said she was relieved about the admission of liability, but said the past three years had been incredibly frustrating for her whole family.

"We are so relieved that the hospital trust has finally agreed to take responsibility for Toby's disabilities. Looking after Toby is so labour-intensive that we don't have time to fight for absolutely every single crumb of support that we can get our hands on. We have struggled to get funding for certain specialist items from Social Services, whose resources are limited, although they now provide overnight care one night a week for Toby."



Introducing our team:-



Angela Kirtley

Angela is an Associate with a particular interest in birth injury claims, general surgery and brain injury litigation.



Jennifer Cawthorne

Jennifer is an Associate and specialises in birth injury, oncology and claims arising from failures to diagnose and treat.



Julia Cotterill

Julia is a solicitor and has a particular interest in cases involving failure or delay in diagnosing illnesses or injuries, surgery and mothers and children injured during birth including cerebral palsy claims.



Stephen Winn

Stephen is a solicitor and has a particular interest in birth injury claims, delayed diagnosis and misdiagnosis claims, orthopaedic injuries and spinal surgery.



Michelle Thomson

Michelle is a qualified nurse who provides medical support to the clinical negligence team.



Daniel Laycock

Daniel is the newest edition to our team. A Newcastle University graduate, Daniel joined us when he qualified as a solicitor in September 2009. Daniel has his own varied caseload, in addition to assisting other members of the team.

Through our range of experience and expertise, our team handles a variety of cases including claims for birth injuries, surgical errors, delayed diagnosis, inadequate cosmetic surgery and lack of informed consent.

Charity at Irwin Mitchell

Charity is an important part of our work, and the Irwin Mitchell Charitable Foundation has donated over £500,000.00 to various causes since it was formed in 1997.

Each office votes for a charity of the year, which receives the donations raised through our monthly 'Dress Down Days' and other fundraising events.

This year the Newcastle office has chosen to support local charity Heel and Toe.

Heel and Toe provide free conductive education therapy to any child suffering from cerebral palsy, dyspraxia or any other motor disorder, including microcephaly, development delay, speech and language delay, West syndrome, Walker-Warburg and sensory integration disorder. Some children who attend the centre suffer from 2 or more of these conditions.

To find more about the charity contact: 0844 335 0512 Or visit the website: www.heelandtoe.org.uk.

Irwin Mitchell actively support the charity and are sponsoring their annual charity ball and golf day.



Irwin Mitchell annually produces a booklet detailing the welfare benefits and tax credits for injury or illness. If you would like a copy of the April 2009 – April 2010 edition, We also provide a range of Medical Law and Patients' Rights booklets. If you would like a copy of any of our booklets, please fill in the form below and send back to Rachel Watson, Irwin Mitchell LLP.

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Brochure Request

Quantity

- Medical Negligence
- Birth Injuries
- Cerebral Palsy
- How to obtain access to your medical records: A patient's guide
- Touching Base
- Our national newsletter
- Spinal Injury Newsletter



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